Jacqueline Polunic

THE TRANSFORMATION OF LOCAL GOVERNMENT IN KWAZULU-NATAL

Volume 1

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DECLARATION

I declare that this dissertation is my own unaided work. It is being submitted for the degree of Doctor of Philosophy in the Faculty of Human Sciences, University of Natal – Durban. It has not been submitted for any degree or examination in any other University.

ABSTRACT

Many African countries have embarked in the process of decentralising the decision making process to local bodies. Decentralisation is an ambitious and a difficult goal for countries such as African ones, that suffer from a lack of resources and a tradition of dirigism or centralism. In the context of the current African State crisis, devolution of power to elected bodies closer to people (decentralisation) is considered to be one of the answers, which can promote democracy, increase the legitimacy of the State and bring development.

Decentralisation in South Africa is all the more interesting because what is at stake there, is the rehabilitation of the State and the creation of a South African identity through a democratic praxis. Because of apartheid, South Africa has been a puzzle of territories and identities. The State apparatus with all its bodies (including the other spheres) has to make out of each South African a South African citizen. It is at the local level where problems are concrete and where communities are divided because they belong to a specific area. It is at the local level that a South African citizenry will emerge (or not), through the consciousness of the inter-dependence which exists between the groups. So, studying the decentralisation process in the 90s in South Africa, is looking at a country trying to (re)invent by itself; new ways of creating a nation, a citizenship, a sense of common belonging, through economic development, symbols; popular participation etc.

In KwaZulu-Natal, the extent of the transformation of local government during the past 6 years has been impressive. New territories, new councillors, new organisation of the bureaucracy, new consultation processes and an emphasis on the disadvantaged, all these are necessary conditions to address global needs and create a sense of local citizenry. But in practice, there is always a limit to the capacity of adaptation of minds and systems to novelty. After 6 years of turmoil, one can reasonably say that the framework is set up but that councillors and officials have still to find their place in the system. They have to define their respective roles. But what is even more important, they have to integrate the "revolutionary" meaning of decentralisation and try to apply their minds to changing the structures they are heading in order to enable significant interactions with the population, a coherent development of their jurisdiction and their hinterland and an identity which goes beyond divided interests. Besides, local councillors have to become real sources of authority and have the courage to find their place amidst other spheres of government, competing powers and people who have technical knowledge. They have to frame strong policies backed by their constituencies.

If not, local government will only become a place where conflicting interests reconcile, and not a source of power on its own. But maybe this will be demanding enough, although the process will be more akin to a new power relationship inside the same system with the same rules, than a revolutionary process.

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ABSTRACT

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Decentralisation in South Africa is all the more interesting because what is at stake there, is the rehabilitation of the State and the creation of a South African identity through a democratic praxis. Because of apartheid, South Africa has been a puzzle of territories and identities. The State apparatus with all its bodies (including the other spheres) has to make out of each South African a South African citizen. It is at the local level where problems are concrete and where communities are divided because they belong to a specific area. It is at the local level that a South African citizenry will emerge (or not), through the consciousness of the inter-dependence which exists between the groups. So, studying the decentralisation process in the 90s in South Africa, is looking at a country trying to (re)invent by itself; new ways of creating a nation, a citizenship, a sense of common belonging, through economic development, symbols; popular participation etc.

In KwaZulu-Natal, the extent of the transformation of local government during the past 6 years has been impressive. New territories, new councillors, new organisation of the bureaucracy, new consultation processes and an emphasis on the disadvantaged, all these are necessary conditions to address global needs and create a sense of local citizenry. But in practice, there is always a limit to the capacity of adaptation of minds and systems to novelty. After 6 years of turmoil, one can reasonably say that the framework is set up but that councillors and officials have still to find their place in the system. They have to define their respective roles. But what is even more important, they have to integrate the "revolutionary" meaning of decentralisation and try to apply their minds to changing the structures they are heading in order to enable significant interactions with the population, a coherent development of their jurisdiction and their hinterland and an identity which goes beyond divided interests. Besides, local councillors have to become real sources of authority and have the courage to find their place amidst other spheres of government, competing powers and people who have technical knowledge. They have to frame strong policies backed by their constituencies.

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Part I

The system of local government: from apartheid to democracy ?

INTRODUCTION

"Local government stands at the threshold of an exciting and creative era in which it can and will make a powerful impact on reconstruction and development in our new democracy."[1]

Decentralisation: a world-wide trend

The 1980s saw a world-wide trend towards emphasis on local government as a vehicle for local democracy and local development.[2] In Europe and on the African continent, the policy of central governments was to ''decentralise'' power, devolving decision-making authority to relatively autonomous regional or local governments, or to special statutory bodies. This amounted to a cession of decision-making powers (including policy making powers) to representative (usually elected) authorities.[3]

Already by the mid-1970s, a theoretical debate about the role of local government and the nature of local politics was opening out. Local government - or the 'local state' as it became known - was viewed as an integral part of a larger political system. Academics studying local government were linking their researches with broader theories of government and politics. The debate was launched by a sustained attack on the traditional public administration approach to studying local government. This was criticised for narrowly focusing on local government institutions and ignoring the wider context of political, economic and social constraints[4] in which they operated.

At the same time, the central state was no longer considered as a guarantor of the citizens' exercise of democratic rights, their demands and concerns not being necessarily taken into account.[5] The central government seemed 'too far away' from the citizens and a 'government of proximity', a structure which would ensure a daily dialogue with the communities, came to

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[1] Ministry of Constitutional Development and Provincial Affairs and the White Paper Political Committee, White Paper on Local Government, Pretoria, Government Printer, March 1998, p.v.

[2] The localists' theory developed a forceful case for autonomous, elected local authorities, arguing that they allow for the varying needs of different local authorities to be accommodated. Councillors live close to the decisions they have to make; they can generate innovation, maximise public choice, promote pluralism and participation. See World Bank and Instituto Italo-Africano, Strengthening Local Governments in Sub-Saharan Africa, Proceedings of Two Workshops Held in Poretta Terme, Italy, March 5-17, 1989, Economic Development Institute Policy Seminar Report No. 21, Washington D. C., World Bank, 1989.

[3] This has to be distinguished from the "deconcentration" process which is the devolution of decision-making authority to dependent field units of the same department or level of government. This amounts to a delegation of power to make decisions in the execution of central policies to civil servants working in the field.

[4] See Stoker G., The Politics of Local Government, London, Macmillan Education, 1988.

[5] Andrew and Goldsmith note that the recent world-wide trend is a "...decline in the legitimacy and consensus about state institutions, about the ability of political parties to translate political demands into effective political action, and increasing disillusionment with political processes, which often seem closed to public influence and open to corruption." See Andrew C., Goldsmith M., 'From local government to local governance - beyond?', International Political Science Review, Vol. 19 (2), 1998, p.104.

be considered as the solution to the lack of representivity, participation and engagement in civic life from which democracies across the world suffer. In this context, local government is considered as one of the main actors in the general move from government to governance, which emphasises a qualitative approach in the relationship between government and governed. Issues such as promotion of women, construction of citizenship at a local level and management of delivery through a democratic process, are now pressing matters of concern to local authorities.

In addition, economic and social development controlled by the central state is more and more criticised as being inefficient, because the central administration is not acquainted with local realities and suffers from a lack of coherence in its interventions. On the one hand, local government is recognised as one of the main actors when it comes to the social and economic factors influencing private investment. In a 'globalised world', local authorities are even in competition to attract investors.[6] On the other hand, local authorities are a tool to promote integrated development, which can co-ordinate the separate priorities of individual central state departments, because elected councils are close to local realities and sensitive to the integrated development of their constituencies.

The principle of decentralisation has been adopted in most of European countries. Even the French state, Jacobin *par excellence*, initiated large-scale reform of its institutions at the beginning of the 1980s and devolved different kinds of powers to three elected decentralised tiers. In England, in opposition to Thatcherism and its emphasis on *laissez-faire* and liberalism of the 1980s, a different vision of public institutions has emerged. Democracy through participation, more direct representation and economic development promoted by local authorities are the priorities of this vision. The 'Urban Left'[7] for example, considers local government as a way to promote participation and equality between citizens through the creation of council committees dealing with topics such as race relations, women etc.[8] This movement also puts a special emphasis on the economic functions of local authorities, such as the creation of local enterprise boards.

On the African continent, many countries have engaged in the process of decentralisation and the creation of a third tier of government, more or less independent from the centre. In

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[6] "Cities have come to recognise that they need to be internationally competitive in the world economy [because of their] increasing role of local government in local economic development." Ibid., p.103.

[7] See King D. S., 'The new right, the new left and local government', in Stewart J., Stoker G. (eds.), The Future of Local Government, London, MacMillan, 1989, pp.185-211.

[8] In England, "Camden, one of the earliest [local authority] to establish a women's committee, had a grants budget which reached a peak of 869,000 pounds in 1987/88. [All the committees established in London's borough] had an officer support unit of two or more staff and one had 23 permanent staff. Such committees had the broad aim of exploring the gender implications of council policies and authority practices (thereby in one place or another addressing almost every conceivable issue). Only a few committees were able to establish such a long reach, generally women's initiatives concentrated on issues relating to the local authority's role as an employer and on influencing the delivery of remedies for domestic violence at local level." Abrar S., Lovenduski J., Margetts H., 'Sexing London: the gender mix of urban policy actors', International Political Science Review, Vol. 19 (2), 1998, p.153

over-centralised and over-powerful states, which were killing local initiatives with their ever-spreading bureaucracies, the World Bank considers the decentralisation phenomenon as a positive step in terms of good governance. In the bank's view, decentralisation will:

- meet the varied demands of the communities by a local provision of public services;
- decrease the cost of services locally produced and financed;
- promote democracy because "politically, local government is a training ground for democracy";
- ensure the local co-ordination of service delivery.[9]

This view has been adopted by many African academics. According to Reddy, decentralisation is the key to Africa's development:

> *... at a political level, decentralisation enables people to participate in a real and effective way in the management of public affairs. Consequently, decentralisation is conducive to local democracy, which is the real or tangible form of democracy, very different to the theoretical and quasi-mythical democracy of electoral campaigns and speeches;*
>
> *... at an economic and social level, economic decentralisation is now considered to be a* sine qua non *for development and democratisation. In this respect, there can be no doubt as to the value of proper regional development plans which are qualitatively different from the regional components of national plans and which, within the context of effective decentralisation, mobilise valuable local energies and resources around integrated projects.*[10]

A limited decentralisation in Africa

Since the 1970s, when weaknesses in the centralised strategies in Africa began to appear, almost all the 51 African countries have designed decentralisation plans. However, these efforts have had limited success. As a Nigerian academic points out, local government systems in Africa remain poorly developed in terms of the proportion of public expenditures they engage vis-à-vis other levels of government or the revenues they generate compared with other regions in the world.[11] At the beginning of the 1990s, in Canada, Japan, USA and Germany, local government spent over 40% of the total public expenditure whereas even in some of the

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[9] World Bank, Strengthening Local Governments in Sub-Saharan Africa, p.71.

[10] Sabela T., Reddy P. S., 'The philosophy of local government in developing countries with particular reference to South Africa', in Reddy P. S. (ed.), Readings in Local Government Management and Development. A Southern African Perspective, Cape Town, Juta & Co Ltd, 1996, p.9.

[11] The following data is drawn from Olowu D., 'The African experience in local governance', in Reddy P. S., Perspectives on Local Government Management and Development in Africa, Department of Public Administration, UDW, January 1995, pp.1-7.

more decentralised countries in Africa (Uganda, Kenya) it was 20% or less. An evaluation of the state of local government in some 22 African countries in 1986, revealed that the sample of local governments performed only 20% of the responsibilities assumed by local government in other parts of the world. African local authorities did not have any autonomy in terms of revenue or human resources policy. They had their most lucrative independent revenue sources abolished or taken over by the central government. They became dependent on central grants. Most countries utilised the integrated personnel management system, which means that there was no clear separation in statute between central and local governments employees. Finally, inter-governmental relations were poor, with weak capacity of local government to lobby higher tiers of government. Local government associations were not encouraged because they were confused with trade unions.[12]

Local government in South Africa

This global context has to be taken into account when one studies the transformation process of local government in South Africa. Until recently, in this country (as in others), local government has been merely studied from the perspective of public administration. This was consistent with the past status of local government, which was considered by central governments as nothing more than a local administration, providing public services. It is not until recently, that South African local government has been awarded the status which has been commonplace in other countries since the 1980s. In the particular South African context of racial segregation, the expectations of local government are higher. Local government is not only expected to bring democracy and development at a local level. Local government has to transform from being an integral part of the state apparatus, in charge of applying discriminatory laws and by-laws to a body able to bring together the different communities and create a sense of common belonging.

The only "real local authorities", those which were functioning in terms of provision of public services with an elected council and a proper administration were the white local authorities (WLAs). Some urban Indian, black or 'coloured' settlements enjoyed a weak form of local administration. The rural areas had none, except the 'traditional authority' of the traditional leaders.

The local government system was based on the denial of the proximity and interdependence of the 'population groups'. White areas were dependent on their surrounding settlements for the work force they provided and the black[13] population had to shop in the white areas. This inter-dependence did not translate into any transfer of finance or technical expertise because blacks were said to be temporary sojourners in 'white South Africa'. All this

[12] Ibid., p.2.
[13] 'Black' in the large sense of black, Indian and 'coloured'.

changed dramatically with the fall of apartheid. The repeal of the apartheid laws and especially the Group Areas Act started the process of transformation of local government.

A general process of reform was initiated in the beginning of the 1990s. It aimed at transforming what was a state apparatus focused on the defence of white supremacy through laws and coercion into institutions favouring participation of all South Africans, the 'old' (whites) and the 'new' citizens, as well as bridging the gap between 'formerly advantaged' and 'disadvantaged areas' in terms of services, facilities, housing etc.

In this context of 'national reform', the general call for decentralisation of the 1980s took on a specific meaning. In South Africa, where everything had to be rebuilt or at least revisited to erase the legacies of apartheid, local government was -and still is - one of the major key to change. In the foreword to the Green Paper on Local Government, local government transformation is seen as a process which will impact on South African "identity and security, and define who we are as local communities and as a nation."[14]

The object of the study

The three general benefits expected from a decentralisation process - the promotion of local democracy, local development and the creation of a new citizenship - were the objects of this study, in the KwaZulu-Natal context. The study was limited by the fact that the field work took place in the immediate aftermath of the first post-apartheid local elections and lasted one year and a half. Essentially, it is a 'snapshot' of a developing process. The research intends more to draw some interim conclusions based on the legacies of the apartheid era and on the attitude of the different stakeholders over certain issues centred on the notions of development and democracy.

This project aimed to study the transformation of local government, through the eyes of the local councillors. The transformation process is more than merely a public administration problem. Obviously, institutional restructuring of local authorities is a crucial issue to address because of the importance of the amalgamation of budget, assets and staff to the new local government's goals. However, to consider only this aspect would have meant to deny the 'human and political factors' which are so essential to understanding local government today. Municipal administration is a part of public administration but it operates in a political field as each elected council constitutes a political unit:

> *Self-governance must be approached as a political activity involving the fundamental allocation of governmental powers to society...*

[14] Ministry of Constitutional Development and Provincial Affairs and the White Paper political committee, Green Paper on Local Government, October 1997, p.iii.

> *Decentralisation... is not an administrative matter..* [it is] *a piece of social engineering.*[15]

Like in any sphere of government, local government is an institution where politics and public administration meet:

> *Public administration is concerned largely with the accomplishment of objectives which are predominantly politically determined. Administrative decisions are not taken in a political vacuum. Politics and administration can therefore not be separated and certainly not in South Africa.*[16]

In a sense, transformation rests in the hands of local councillors. The national and provincial governments play a role in the process through legislation, but at the end of the day, transformation can be prevented if the people at the head of the structure are not only fully involved, but in fact direct the process. But this task is all the more difficult because, since the 1996 local elections in KwaZulu-Natal, local authorities have been headed by (mainly black) councillors who are assuming this kind of responsibility for the first time.

This is why this study is based mainly on interviews with councillors. It seemed important to the author to enter into the 'mental representations' of councillors, to determine how they analyse their new situations, and how they understand the notions of local democracy, local development and local identity. Councillors are considered as the key to the success of the new local government system. Institutions can be designed to be as perfect as possible to promote values of democracy, development and local citizenship, but if the people in charge of giving life to the 'machine' are not assuming their functions or are lacking legitimacy or authority, success will be elusive.

KwaZulu-Natal is one of the most interesting provinces when it comes to dealing with such issues. Constitutionally, each South African province was left to take a certain number of decisions[17] concerning local government. As a consequence, each province has, to some extent its own local government system. KwaZulu-Natal was chosen as the case study for this project because of its peculiarities. Its history of political violence between Inkatha and the ANC gives a characteristic dimension to politics at all levels in the province. Inkatha's history of participation in apartheid local government structures is only one aspect of this. The difficult cohabitation of new structures with traditional leaders who have been 'informal local

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[15] Olowu, 'The African experience in local governance', in Reddy, Perspectives on Local Government, p.6.

[16] Tötemeyer G., 'Local Government: Where Politics and Public Administration Meet', in Heymans, Tötemeyer, Government by People?, p.1.

[17] For example, it is a provincial ordinance which describes the relationships in metropolitan areas, between the local councils and the metropolitan structure. In addition, in rural areas, most of the provinces have established primary tiers of local government but in KwaZulu-Natal, there is only an overarching body, the regional councils.

authorities' if not local governments in rural areas, is another characteristic which makes the province very interesting to study. In terms of 'external powers' which could threaten councillors' legitimacy, the combination of ANC central government / IFP provincial government / ANC urban local governments and IFP rural local governments makes sure that the autonomy of the local sphere, although ensured by the constitution, will be put to test not only by the centralist tendencies of the ANC, but also because local government is only one aspect of a wider and interlocking political game.

The study does not intend to give a picture of local government in South Africa (even if some problematics are common to all the provinces) but is restricted to an assessment of transformation in a provincial context characterised by the multiple challenges of violence, political competition between black parties and the presence of alternative local powers in rural areas, in the shape of the amaKosi.

The meaning of transformation

Among the principal questions, which bear on the transformation of local government are:

- What continuities and compromises with the recent past can transformation tolerate?
- How much of transformation the present can tolerate?

Transformation is a central notion when one talks about any subject South Africa[18] and especially local government:

> *One of the general findings of the* [FFC] *survey has been the diversity and magnitude of the changes occurring at local government level. Almost every aspect of local government is undergoing change*[19]

On its own, the name of the phase which has followed the local elections ("interim phase") is enough to signal that this sphere of government is marked for transformation. But the notion encompasses different realities and this study has tried to define what type of 'transformation' local government in KwaZulu-Natal is going through.

As Singh points out, there are two broad understandings of the term transformation. It can refer to a radical agenda of change or simply a phase of transitional politics. For Singh what is important is to determine "whether such reconstruction of the discourse of struggle is a

[18] Singh explains that the term 'reform' is rejected in South Africa because it is "closely associated with the tri-cameral politics of change... reforms certainly open up spaces and possibilities for transformatory gains by organised constituencies in different terrains but they may also be designed by the ruling bloc specifically to close off or weaken such gains." Singh, 'Transformation time!', Transformation 17, p.52 and 54.

[19] Donian C., 'The realities of local government: a profile of local government in transition', Paper delivered during the Conference organised by the Fiscal and Financial Commission, Designing Local Government for South Africa: Structures, Functions and Fiscal Options, 23-25 July 1997, p.7.

euphemistic accommodation to reform or a creative interpretation of revolution."[20] The study adopts Singh's definition of transformation:

> *...it involves fundamental deep-rooted restructuring rather than adjustment/modification of the* status quo, *piecemeal tinkering, reformism, band-aid patching up; it involves a re-organisation of power relations and an irreversible shift in the balance of forces in the direction of the previously disempowered; it involves the aspiration to a social order and social policy that focuses on common or majority interests... transformation as a progressive mode of change is committed and actively seeks a disjuncture between present distribution* [of power and privilege] *and any future one. The ultimate and maximal objective is to undermine and re-order a number of decisive hierarchies that persist at an institutional and national level.*[21]

This general definition of transformation is important to keep in mind, especially when critics question the necessity of some changes at local government level, on the ground that "some councils are working well."[22] It is all the more important, then, for local authorities not only to adapt to serving a new territory and new communities, but also to adopt the three ambitious goals of democratisation, development and the creation of a local citizenry.[23] These aims have never been espoused by any tier of government in South Africa, let alone local government. As a result, the challenge of local transformation is all the greater.

This study argues that local government, through a change in role, legitimacy and actors (councillors and officials) will have transformed if each territory becomes a space in which people feel inter-dependent. This means that the different communities are conscious of the common interest they share. They know their strengths and weaknesses and they build upon them.

The study analyses the way local government used to work during the apartheid era, the model adopted for the transition phase and the way local elections took place in KwaZulu-Natal. An understanding of the logic of the past and present system, as well as the extent of the 1996 electoral legitimacy, will be useful in comprehending better the constraints limiting transformation.

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[20] Singh, 'Transformation time!', Transformation 17, p.50-51.
[21] Ibid., p.51-52.
[22] During a workshop, the deputy-chairperson of the exco of the North Central council in Durban stated that "there are some councils which are working well so why change them?". Margaret Ambler-Moore, workshop organised by the Department of Local Government and Housing, Green Paper on Local Government, ICC, Durban, 28-29 October 1997.
[23] The following definition was given by Mr Mzamane, Vice Chancellor of Fort Hare University : "transformation is about two things: reconciliation and reconstruction." State of Transformation in South Africa Conference, organised by the Strategic Planning Institute, Durban, 28-29 April 1997.

Part II of the study deals with the "human aspect" of the topic. Models and frameworks are set up, but they do not "live" by themselves. The human factor is important to take into account, in order to explain the gap between discourse and reality. Local councillors are at the centre of the study, which analyses their profile, and their relationship to officials and communities.

Part III tries to look at the way local government has transformed, over and above the changes it has gone through in terms of personnel, boundaries, resources, model etc. Through tackling two major issues (development and democracy), local government tries to participate in the creation of a broader South African citizenship.

Notions of democracy, development and citizenship in a local government perspective

In South Africa, 'transformation' is closely linked to democratisation and popular participation:

> *Transformation could be understood as the maximal utilisation of new political space to push the struggle for popular participation and empowerment further. It could be viewed as the opportunity to insert progressive constituencies into positions where, through contestation with ruling bloc forces, they could intervene in the struggle to shape the South Africa of the future.*[24]

This study has used different criteria to establish whether South African local councils promote democracy or not:

- The level of public participation of the communities in the decision-making process;
- The accountability and representivity of the councillors towards the communities and of the officials towards the councillors;
- The authority and power of the council to define local policy objectives and to have these objectives implemented. Indeed, effective representative action means not only listening to the constituencies but exerting pressure by sending deputations to the Minister responsible, canvassing the local member of Parliament, writing to the press and other activities. As a consequence, it has to do with the problem of inter-governmental relations and the way local government is treated by the two other spheres.

[24] Singh M., 'Transformation time!', Transformation 17, Durban, 1992, p. 57.

The second question is whether local authorities are able to promote coherent and integrated development in their areas of jurisdiction. They were expected to fulfil this role before the constitution emphasised it[25].

Local authorities are expected to deal with social and economic development. They will have to ensure the delivery of services, not only by maintaining the existing services but also by extending them in an affordable manner to neglected areas. The White Paper on Local Government[26] largely uses the term 'developmental' to characterise the nature of an 'ideal' local government in the future. In the list of criteria it proposes, one realises that development is mainly associated with 'non-visible' activities. A developmental local authority is a one which:

- Fosters social development and economic growth;
- Co-ordinates the interventions of public and private investments;
- Democratises development;
- Empowers marginalised groups.

In this list, the ministry of Constitutional Development clearly links development and democracy. In addition, it does not only give local governments the task of building and maintaining visible facilities and providing services such as potable water and refuse removal. It asks local authorities to be an instrument through which even marginalised groups and communities can express their needs and participate in policy-making. Furthermore, it expects local councils to be a real authority when it comes to local planning. Co-ordination of the intervention of provincial and national departments' with the activities of the private sector, is the goal. Local councils are supposed to be the guarantor of a coherent and holistic development, ensuring for example that the newly built school is provided with water and an access road, and the general environment is favourable to private investments. It has to establish structures through which policy can be co-ordinated, so as to mobilise all agents of local development.

Thus, the role of local government is not so much a direct provider as an enabler, creating an environment in which individual and community development can flourish and become self-sustaining. This, as we shall see, is much more difficult and challenging than the traditional role of service provider.

When South African local government[27] tries to address the two general challenges we have described, it contributes to build a sense of common local belonging among very different

[25] Cf. GNU (South African Government), Urban Development Strategy of the Government of National Unity, Government Gazette, Vol. 365, No. 16 679, Pretoria, 03.11.1995; and GNU (South African Government), Rural Development Strategy of the Government of National Unity, Government Gazette, Vol. 365, No. 16 679, Pretoria, 03.11.1995.

[26] Ministry of Constitutional Development, White Paper, p.x.

[27] The problem of the creation of a local identity is extreme in the South African case but exists also in other countries. Andrew and Goldsmith point out that "Citizenship is used, for example, to come to grips with some of the governance issues associated with the increasing diversity of urban centres, particularly

communities. Local government is the main administrative institution which translated apartheid into reality. Apartheid was synonymous with political repression, the presence of security forces and a general climate of violence in the townships. But apartheid was also present in the day-to-day life of the black, Indian and coloured population, through their physical separation from the white community in terms of places of residence and the massive discrepancy in terms of public services and facilities they had to cope with. The boundaries separating the white local authorities and the territories with no local government at all (rural areas) or under a powerless council (R293 townships, black local authorities) were also separating communities which had a right to influence service provision and participate in local policies, from those which were simply the subject of a higher and unreachable power. The local authority boundaries were an important symbol of this divided society where people were allocated geographical space to live and to work, with different administrative rules and urban realities.

Because local authorities were such a symbol of division in the past, now that their boundaries encompass all racial groups and that their councils are composed by black, Indian, coloured and white councillors, they have to create a sense of common local identity and give a 'human meaning' to the new administrative entities. Their different components are officially inside the same administrative boundaries, ruled by a single administration headed by a multi-racial council. However, the legitimacy of the new structure is likely to be weak if the inhabitants do not identify with it and, thus acknowledge that the formerly separate entities are now irremediably inter-connected.

Building a local identity or a common sense of belonging can be achieved through a new urban planning which overcomes the spatial and developmental fragmentation of the apartheid era. Policies promoting spatial integration - though not in the sense of desegregation[28] - harmonious development, equalised delivery of services, can help to transform the present 'patchwork' into continuous and homogeneous urban areas. Councillors also have a role, in their obligation to consider the public's general interest (not one community's interest) and to come to a balanced decision based on fairness and justice This imperative is one of the most difficult which faces South African councillors.

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in cultural and ethnic terms. Both elected and non-elected officials are increasingly aware that local governments have a role to play in the governance of this diversity." See Andrew, Goldsmith, '>From local government to local governance - beyond?', International Political Science Review, p.109. According to Kolesas, in Argentina, "the problem is how to reverse the processes of fragmentation and reconstruct the figure of the citizens, and to determine at what level of the political system and society this can be best done." See Kolesas, 'The making of citizenship in Argentinean local politics', International Political Science Review, p.133.

[28] "Everyone admits [in South Africa] that the scars of apartheid will take a long time to disappear, and the question of racial mixing of residential areas is not considered as a priority. The challenge is more to make the apartheid city viable and to give some rights to all the residents, rather than to change the essential structures... It is not about restructuring the space but making the city work again." Gervais-Lambony P., 'Les villes d'Afrique du Sud: Gestion de l'héritage et recomposition de l'espace', in Hérodote, No. 82/83, Paris, 1996.

A recognition of the legitimacy of the new council and of the different duties that citizenship entails (mainly payment of services and rates) is an important step toward the creation of spaces not only defined by their common administration or common council but by their common interests and values.[29]

In the same way that development is associated with democracy, the creation of a common sense of citizenship is not separable from the notion of democracy:

> *Local citizenship captures the idea of the city and the locality as the appropriate levels for an arena of debate, for the construction of a metaphoric agora in which citizens can deliberate their collective choices... This sense of citizenship implies that the local level is not merely a deliverer of services, it is a proper government. By seeing local governance as a process which establishes the definition and consequences of community membership, one is emphasizing its qualities as a government.*[30]

From its micro-analytic perspective - the way several municipalities in rural, urban and metropolitan areas have been working since the first democratic local elections - this study is directed toward an examination of the form, the content and the outcomes of local government transformation in KwaZulu-Natal.

[29] "Citizen status is defined by the participation in a common practice, whose exercise enables individuals to turn into politically community-responsible subjects and to shape their identity insofar as they create communal goods. Following Hollis's argument, the idea is to extend the boundaries of the individual to include relations with other people mediated by shared incorporation in the polity." See Kolesas, 'The making of citizenship in Argentinean local politics', International Political Science Review, p139.

[30] Andrew, Goldsmith, 'From local government to local governance - beyond?', International Political Science Review, p.111.

Chapter 1
The apartheid model of local authority

This chapter will not extensively cover the apartheid system of local government, which was so complex and complicated that it could easily be the object of a whole thesis. What interests us in the past system, are the specific features which still have an impact on today's system of local government.

Two characteristics in particular, are at the roots of the main problems experienced today by local government. First of all, the aim of the apartheid policy was to create different bodies to manage different racial groups. This led to a multiplicity of local government systems which entrenched not only separation but also fragmentation. This artificial separation did not - and could not - correspond to human and economic reality and it proved very costly and inefficient.

The second legacy is that of state centralisation. In order to ensure that its policy of racial separation was implemented, the white minority regime had to exercise its power at all levels of government. In the eyes of the National Party, local government was never anything other than an implementing agent of apartheid policy.

From a closer understanding of the apartheid model and its two main legacies, we will be able to present and analyse certain of its consequences for local government in the "New South Africa".

1 - A multiplicity of local government bodies

Local government in South Africa had always been, until the new constitution of 1996, a 'creature of statute' which meant that it was established by legislation and its origins were not in the constitution.[1] Every type of local authority' activity had to be authorised by the national or provincial government. As a consequence, the state could easily modify the nature, functions or characteristics of a local authority in order to suit its policy choices. The implementation of apartheid had a direct impact on the South African system of local government. For example, the Group Areas Act (1950) created autonomous municipalities for the different racial groups. It was at the local level that the racial divisions were the most visible. At a broader scale, the homelands[2]

[1] The legislation governing local government was produced at national and provincial level. The South Africa Act of 1909, the Republic of South Africa Constitution Act 31 of 1961 and the Provincial Government Act 32 of 1961, conferred powers on provincial councils to legislate on municipal institutions. The most important pieces of national legislation for our study, are those which established local government institutions, such as the Regional Services Councils Act 109 of 1985 and the Black Local Authorities Act 102 of 1982. At provincial level, each of the four provinces had an ordinance to regulate municipal matters. In Natal for example, it was (and still is at the time of writing) the Ordinance 25 of 1974. But hundreds of other national and provincial legislation had an impact on local government (cf. the list reproduced from the Ministry of Constitutional Development and Provincial Affairs and the White Paper Political Committee, Green Paper on Local Government, Pretoria, Government Printer, October 1997, pp.91-96).

[2] The homelands were the territories created by the apartheid government to host the majority of the black population and which were to become ultimately "independent" from South Africa.

policy intended to separate "white South Africa" from what was hoped to become "black independent states", but the divide could not really be "felt" by the populations, except in the 'border' areas. Local government epitomised a system where according to race, people living next to each other were governed by different laws and regulations.

1.1 - Different local authorities for different races

In terms of powers, functions and budget, white local authorities were in theory quite autonomous from the state and in general financially healthy. Second in the hierarchy of apartheid, were the 'coloured' and Indian populations. If whites were said to be able to govern themselves, 'coloureds' and Indians had to prove they were able to do so. The legislation which created local authorities for those two groups implied that after a period of tutelage from the "mother white local authority", 'coloured' and 'Indian' areas would be able to manage their affairs autonomously and effectively. At the bottom of the apartheid hierarchy were the black people. Until the 1970s, the idea was to provide them with temporary accommodation until the time when all of them could live in their homelands. However, as apartheid moved into crisis in the mid-1970s, the apartheid government was forced to make small concessions to 'black' aspirations - creation of black local authorities and regional services councils - while trying to preserve separate development. These attempts proved to be sterile.

1.1.1 - White local authorities (WLAs)

Each of the four provinces created different types of local authorities,[3] with varying powers. Local government bodies such as town councils were mere copies of their English counterparts without much adaptation to South African or even modern needs.[4]

All the white urban local authorities, except in the smallest settlements (which were directly run by the central government),[5] were headed by a "democratically" elected council.[6] For example in

[3] For example town boards and health committees in Natal. However, all white local authorities were corporate bodies.

[4] Floyd T. B., Better Local Government for South Africa, Pietermaritzburg, Shuter and Shooter, n.d., p.108.

[5] Two Natal Provincial ordinances were passed in order to deal with areas (white, black and Indian) which are not governed by any form of municipal authority but which still require some management. The Natal Provincial Council passed the Local Health Commission Ordinance in 1941. The Ordinance 14 of 1974 changed its title to the Development and Services Board (DSB) Ordinance (which is still applied today). The area of jurisdiction of the board consists of health areas also known as development areas (they are not part of the area of any local authority and in the opinion of the Administrator "by reason of the density of the population, or its class or character, or the sanitary conditions prevailing" they require "proper management, regulation and control of matters affecting public health") and regulated areas (they are areas which have not yet reached the population density or development of health areas). In regulated and health areas, the board serves as the municipal authority (the population under DSB in 1994 amounted to 106,000 in Natal). It provides all the services of a local government (except electricity provision) but without a local council. The objective was to uplift these areas to a level of self-sufficiency, where either self-government at local authority level or

Natal, each municipality (borough) was divided into wards and one-third of the councillors retired annually. The powers and functions of the South African local authorities were very similar to those of village, town and city authority in the rest of the developed world. White local authorities had to deal with the provision of public service and the maintenance of the infrastructure, land use and traffic control. They also enjoyed the powers to make by-laws and to prepare and enforce town planning schemes.[7]

It is necessary to notice here that white local authorities, besides fulfilling all the duties and functions that are common to local government across the developed world, had a specific role in shaping what became the apartheid system.

From 1948 to 1976, the ideology of apartheid required that persons of colour be excluded from provincial councils and parliament and that separate local government institutions be created for blacks, 'coloureds' and Indians under white supervision. However, if the system was institutionalised and entrenched with the accession of the National Party to government in 1948, white local authorities themselves had experimented separation and segregation well before that date.

Many academics[8] agree that it was at the local level that the first signs of apartheid were shown. Residential segregation was enforced at a municipal level from the 1920s onwards. With the 1923 Urban Areas Act,[9] municipalities enforced residential segregation. They could build and administer native locations thanks to the sale of liquor, regulate entry into the urban area and register service contracts.[10]

Some studies emphasise that municipalities acted in this matter as the local agent of the central state.[11] Others note the capacity of local government, not only to apply government legislation but

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incorporation into an adjacent independent local authority was viable and feasible. See Natal Development and Services Board, Annual Report 1993/94, Pietermaritzburg, DSB, 1994.

[6] The vote was restricted to white adults with, until the 1950s, a property qualification.

[7] In Natal, these powers were granted in 1934. See Natal Ordinance of the Provincial Council, No. 10 of 1934.

[8] Grest J., 'The crisis of local government in South Africa' in Frankel P., Pines N., Swilling M., State, Resistance and Change in South Africa, Johannesburg, Southern Book Publishers, 1989, pp.87-117 ; Grest J., 'The Durban City council and the "Indian problem": local politics in the 1940s', in The Societies of Southern Africa in the 19th and 20th Centuries, Vol. 14, Collected Seminar Papers No. 37, University of London, Institute of Commonwealth Studies, 1988, pp.88-95; Atkinson D., 'Local government' in South African Human Rights and Labour Law Yearbook 1991, Vol. 2, Cape Town, Oxford University Press, 1992, pp.148-162; Cloete F., Local Government Transformation in South Africa, Pretoria, J. L. van Schaik, 1995; McCarthy J., 'Local and regional government: from rigidity to crisis to flux' in Smith D. M. (ed.), The Apartheid City and Beyond, Urbanisation and Social Change in South Africa, Johannesburg, Witwatersrand University Press, 1992, pp.25-37 ; Maharaj B., 'The spatial impress of the central and local states: the Group Areas Act in Durban' in Smith, The Apartheid City, pp.74-87.

[9] Black (Urban Areas) Act 21 of 1923.

[10] Cf. for example the literature on the "Durban system" cited in the bibliography under Edwards I. and Maylam P., and La Hausse P.

[11] Grest J., 'The crisis of local government' in Frankel et al., State, Resistance, p.87.

also to innovate in terms of segregation. Jeff McCarthy[12] states that by the 1950s, those in control of central government had been 'inspired' by a variety of local systems of segregation, modifying, adapting and codifying them into a single national policy framework. He takes Durban as an example[13] and shows that local initiatives preceded and partially informed centralised approaches to urban apartheid:

> *In Durban, many of the precedents for the Group Areas Act were developed prior to the ascendancy to national power of Afrikaner ethnicity and the NP in 1948.*[14]

McCarthy emphasises the economic reasons behind the segregation applied by the city council. He alludes to a:

> *... manipulation of spatial relationships under the influence of white working-class organisation and businesses to override the economic forces generating competition... While the Group Areas Act of 1950 was a major symbolic and legal instrument for the achievement of the aims of Afrikaner Nationalism, the local political and economical preconditions preceded the act in time.*[15]

In this sense, he points out that the pattern of land usage and racial settlement that exists in Durban today mirrors the 1943 proposals of the local state bureaucracy.

Brij Maharaj,[16] writing also about Durban but focusing on the Indian population, goes back as far as the 19th century to demonstrate the segregationist tendencies of the Durban town council:

> *In Durban, the agitation for Indian segregation commenced in the 1870s. In 1871 the Durban Town Council adopted a policy to create separate Indian locations... In 1922, the Durban Town Council requested the Natal Provincial Council to pass Ordinance No. 14, which introduced an 'alienation' clause into the title deeds so that ownership and occupation of property was confined to one race group... there was substantial evidence of close collaboration and complicity between the Durban Council and the National Party with regard to the formulation and implementation of group areas legislation.*[17]

Sutcliffe also mentions that:

> *... in the early 1900s the white municipality of Durban decided to build hostels and later townships some distance from the city in order to ensure that Africans would not live in the city. In addition after 1908, municipalities in the*

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[12] McCarthy J., 'Local and regional government: from rigidity to crisis to flux', in Smith, The Apartheid City and Beyond, p.26.

[13] McCarthy J., 'Class, race, and urban locational relationship', in Swilling M., Humphries R., Shubane K., Apartheid City in Transition, Cape Town, Oxford University Press, 1991, pp.258-271.

[14] Ibid. p.261.

[15] Ibid., p.261-262 and 264.

[16] Maharaj B., 'The spatial impress' in Smith, The Apartheid City, p.74.

[17] For a description of the local initiatives concerning the Indian population in Durban see Grest, 'The Durban City council and the "Indian problem"' in The Societies of Southern Africa, pp.88-95.

province were empowered to establish local monopolies over "native" beer and such profits were then used to control Africans. Each of these policies implemented by whites in Durban were precursors to a far more comprehensive set of policies imposed on the people of South Africa by the NP [18]

As these accounts make clear, white local authorities were an important factor in the enforcement of separate development in South Africa. They used their powers to establish locally, what would be the main characteristic of apartheid, the spatial separation of races.

1.1.2 - Local authorities for Indians and 'coloureds'

A special type of local authority was created in the 1960s for these two groups. They were called management committees (MCs) in 'coloured' areas[19] and local affairs committees (LACs) in areas designated for Indian use. It was the 1962 Group Areas Amendment Act which empowered the minister of Community Development to launch investigations into the desirability of establishing MCs or LACs. In reality, discretion was given to the provinces which produced their own ordinances and regulations.[20] The Act specified that these bodies had to go through three phases of development before reaching full municipal status. During the first phase, consultative committees with advisory powers had to be constituted. These were made up of nominated members (two nominated by the 'mother WLA' and three appointed by the Administrator).[21] In the second phase, councils were partly elected and partly nominated (two councillors were nominated and three elected by Indian voters with a franchise restriction of age and property).[22] Their powers were still advisory but the 'mother WLA' could delegate some powers to the MC and LAC. In the third phase, they would become fully fledged municipalities with equal status to the WLAs. The essential prerequisites to reach that stage were sufficient revenue, trained staff, a minimum area size with the capacity for geographic consolidation.[23] These conditions made it impossible for nearly all the LACs in Natal to enter the third phase.[24]

At first, MCs and LACs were kept under the tutelage of the WLAs[25] and even if the WLAs were obliged to consult these two bodies on matters affecting their areas, they had no obligation to accept

[18] The Mercury, 04.12.1997. In this article, Sutcliffe, an ANC local government expert drew on the academic work of La Hausse and others to make a political point.
[19] For an analysis of the MCs see Hendricks C., 'Legitimacy crisis for ManComs', Indicator SA, Vol. 5 (4), Spring 1988, pp.62-64.
[20] The Natal Provincial Council promulgated the Local Government Extension Ordinance, 1963 (Ord. 23).
[21] Each province had a chief executive official (the Administrator) with policy-making powers virtually equal to that of the provincial executive committee. He was appointed (and could be removed) by the national government and was directly responsible to it.
[22] Local Government Extension Ordinance, 1963 (Ord. 23).
[23] Cameron R., 'Managing the Coloured and Indian areas' in Swilling et al., Apartheid City, pp.48-64.
[24] Only four Indian LACs in South Africa reached the third step: Verulam, Isipingo, Marburg and Umzinto North. No coloured local authority was deemed viable enough to reach it.
[25] The LACs' personnel were employed by the WLAs.

the advice. After 1984 and the cosmetic changes symbolised by the introduction of the tri-cameral system, it became clear that the apartheid government was not serious in establishing separate 'coloured' and Indian municipalities. For example, under the Local Government Affairs Amendment Act (1985), MCs and LACs could acquire certain final decision-making powers[26] but they had to petition the Administrator who would determined the feasibility of such a request.

This situation created ambivalent feelings amongst the Indian and the 'coloured' communities. Formal rejection was the order of the day not only from the Natal Indian Congress (NIC) and other bodies associated with the ANC and the congress tradition, but also from the Natal Association of LACs (NALAC) and the political party Solidarity. These latter groups opposed any attempt to increase the decision making powers of LACs. They justified their position by stating that this would be a step towards 'independent ethnic local authorities' but the reality was that LACs were heavily subsidised by white local authorities and most councils could not afford financial independence.[27] As Challenor puts it:

> *If LACs accept the powers* [given to them by the Local Government Affairs Amendment Act of 1985], *they will be taken a long way down the road to autonomy but further into the 'own affairs' ambit of apartheid (and financial power will still lie with white town councils).*[28]

1.1.3 - Local authorities for blacks

According to the policy of "parallelism",

> ... *Natives were allowed to develop on their own lines, setting their own standards and customs. After conquest, this policy evolved naturally to combine with one of 'white' guardianship and protection of the Native. Such a policy safeguarded the Native to a considerable extent against exploitation.*[29]

1.1.3.1- Blacks in South Africa[30]

Each of the bodies which will be discussed in this section, was created by the apartheid government after the failure of the previous one. If they symbolised the increasing recognition of the presence of blacks in urban areas and the necessity of giving them a proper administration, the concessions did not go very far in practice. It could not have been otherwise. Accommodating the black population in 'white' South Africa by giving them extensive rights to govern themselves

[26] Among the powers were the allocation of business licences and houses, eviction of tenants, as well as approval and planning of new housing schemes.
[27] The LACs were not autonomous financially because little or no revenue was generated by taxes on Indian commercial and industrial areas. Moreover, the rateable value of LACs was low.
[28] Challenor M., 'LACs - Gravy or grassroots train?', Indicator SA, Vol. 5 (4), Spring 1988, p.21.
[29] Floyd, Better Local Government, p.179.
[30] See annexe I.

would have amounted to a recognition that the separate development policy had failed and that the presence of blacks in urban areas was a reality which could not be denied. Thus there was a deep contradiction between the apparent liberalisation of the system and the continued domination of black local authorities by white local authorities, by the province and by the state.

With the Black (Urban Areas) Act of 1923 as amended in 1945,[31] "Native local authorities" as they were called, fell under the control of the Native Affairs Department of the central government - and its successors - and not under the provincial authorities, as in the case of other local authorities. They had no power of rating or taxing. The Act enabled neighbouring white local authorities to manage and control the black townships within the so-called 'white' urban areas. Given the functional links of economics and communications which existed between the two entities this seemed logical. In most cases, the 'black' townships were initiated as public housing schemes, by the white-elected local authorities, which ran their administration until 1971. They were governed by Urban Bantu Councils (UBCs)[32] composed by members elected by residents and people nominated by the WLAs and the relevant minister.[33] The 'white' and the 'black' areas kept in touch through their respective council and the WLAs had the obligation to consult UBCs on matters affecting township residents. But if the system allowed for the vital communication between the two areas, the UBCs did not receive the support of the township population[34] and were derided as 'Useless Boys Clubs'.[35]

At the end of the 1960s, the central government decided to break the links between white and black areas and moved to take over the townships from the WLAs. It established the Bantu Affairs Administration Boards[36] (BAABs), which were later called Administration Boards and then Development Boards.[37] In 1971, municipalities lost control over their 'black' areas. Administration Boards did not have to account to them at all and were directly responsible to the Department of Bantu Administration and Development. In fact, as they were not empowered to make their own regulations, they followed directives from above. They had a wider geographical area of jurisdiction

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[31] Black (Urban Areas) Act 21 of 1923 and Black (Urban Areas) Consolidation Act 25 of 1945 (repealing Act 21 of 1923).

[32] Urban Bantu Council Act 80 of 1961. From 1961 onwards, WLAs were allowed to create Urban Bantu Councils to administer matters assigned by the Minister of Bantu Administration and Development.

[33] Heymans C., White R., 'Playing politics without the power: the state of black local government in the South Africa of the 1980/90s' in Politikon, Vol. 18 (1), January 1991, pp.3-28.

[34] Purcell reports at the end of the 1960s, a turn-out well under 20% for the Urban Councils' elections. See Purcell J. F. H., Durban, South Africa: Local Politics in a Plural Society, PhD, Los Angeles, University of California, 1974, p.67.

[35] Murray M., South Africa, Time of Agony, Time of Destiny: the Upsurge of Popular Protest, London, Verso, 1987, p.118.

[36] The Black Affairs Administration Act 45 of 1971 created 22 Administration Boards. See Bekker S., Humphries R., From Control to Confusion: The Changing Role of Administration Boards in South Africa 1971-1983, Pietermaritzburg, Shuter and Shooter, 1985.

[37] They were abolished only in 1986.

than the white municipalities and took rural areas within their boundaries. This total administrative separation between 'white' and 'black' areas should be seen as part of the apartheid state's general strategy to cut the black population off from the 'white' areas, the other component of this strategy being the extension of homeland self-government.

As Atkinson points out,[38] until 1971 through the WLAs' administration of the townships, there was a long-standing - even if unequal - contact and familiarity between the two, a "fragile sense of belonging to the same city".[39] With the Administration Boards,

> *... an institutional 'Berlin Wall' had descended on towns and cities, so that Africans' geographical proximity to the white city became dissociated from the white patterns of administration, political participation and urban identity. Africans were in the city but not of the city.*[40]

The other consequence of the taking over by the Administration Boards, was the cut in public housing construction in the townships. Whereas WLAs had built, provided the maintenance and paid for the administration costs and improvements of the township houses, the BAABs greatly reduced the housing expenditure and did not ensure their maintenance.[41] One of the explanations was that the BAABs were expected by Pretoria to become financially self-supporting in the matter of maintenance. For capital expenditure, they relied on allocations from the Department of Co-operation and Development, allocations which increased slower than the inflation rate.[42] As a consequence, Administration Boards tried to raise their income and cut their expenditures. Murray[43] quotes the survey of the Riekert Commission[44] which indicates that for the years 1973-77, the BAABs spent over twice as much on the manufacture and sale of home-brewed beer and other liquors[45] than on the provision of housing. Another - complementary - explanation given by Soni is that "the state's policy was to decentralise the black working classes, and as a result, housing priority was given to homeland development."[46]

Another function of the Administration Boards, besides performing the usual tasks of local government, was to implement influx control (including pass raids and forced removals).[47] This made them even more unpopular and they became one of the main targets of resistance. During the

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[38] Atkinson D., 'One-city initiatives', in Swilling et al., Apartheid City, pp.271-289.
[39] Ibid., p.273.
[40] Ibid.
[41] Mabin. A, 'Negotiating the shape of metropolitan government for post-apartheid cities in South Africa', Villes et Developpement: Groupe inter-universitaire, Montreal, Cahier 1-96, 1996, p.2.
[42] See Fick M., 'Administration Boards still rule', Indicator SA, Septembre 1983, Vol. 1 (2), p.10.
[43] Murray, South Africa, Time of Agony, p.119.
[44] Republic of South Africa, Commission of Inquiry into Legislation Affecting the Utilisation of Manpower, Report of the Commission of Inquiry into Legislation Affecting the Utilisation of Manpower, RP 32/1979, Pretoria, 1979.
[45] In the 1970s, "the most important single source of income for administration in the black townships was from the sale of liquor." See Inter-Ministerial Committee on the State of Local Government Finance, Discussion Document Version 1, unpublished, September 1994, p.7.
[46] Soni D. V., 'The apartheid state and black housing struggles' in Smith, The Apartheid City, p.43.
[47] Christianson D., Friedman S., Strong Local Government in South Africa: Exploring the Options, Johannesburg, Urban Foundation Research Report 2, March 1993, p.15.

1976-77 uprisings, township residents singled out Administration Board beerhalls, offices and vehicles as symbols of their oppression.

The context of the mid-1970s in South Africa was characterised by multiple pressures on the state.[48] Spontaneous strikes for higher wages and improved conditions of employment in early 1973 in Durban and Pinetown spread in the same year to Johannesburg. The Soweto uprising in 1976 demonstrated to the government that:

> *... the weakest link in the state's battery of administrative constitutions was the 'inner perimeter' of townships and ghettos, housing the urban black population.*[49]

Inside South Africa, political contestation led to violence and the economic unviability of the system was evident. For example, the growth in the manufacturing industry necessitated a stable and skilled work force and this contradicted the policy of treating blacks in urban areas as 'temporary sojourners'. On the borders, after the independence of the former Portuguese colonies, the threat of communist states surrounding the country was becoming a reality. In this atmosphere of crisis, the government grew more accommodating concerning the representation of the black population at local level, but, once again, the state did not go beyond cosmetic measures.

The decision was to replace the Urban Bantu Councils - which were still in existence despite their total lack of power - by Community Councils.[50] The Administration Boards were politically rejected but the government was not ready to abolish them. Instead, it gave to the 'black' areas the possibility of being represented in Community Councils, which were supposed to enjoy greater executive powers than UBCs. But the Act did not automatically confer powers on them, it simply allowed central government to transfer many of the powers wielded by the Administration Boards.[51] In fact most of the powers were not transferred and Administration Boards retained responsibilities for administering services and often ignored the advice of the Councils.[52] The first objective of the reform was to give blacks representation through elections. However, the conditions of the franchise made a farce of this objective. Voters had to be citizens of South Africa, without a criminal record, registered occupiers of township accommodation and listed on the franchise rolls.[53] Millions of blacks were excluded because they were considered as citizens of semi-autonomous or "independent

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[48] On the crisis of the 1970s and 1980s, see Price R. M., The Apartheid State in Crises: Political Transformation in South Africa, 1975-1990, New York, Oxford University Press, 1991; Saul J. S. and Gelb S., The Crisis in South Africa. Class, Defence, Class Revolution, Monthly Review Press, New York, 1981; Moss G., 'Total strategy' in Work in Progress, No. 11, 1980, pp.1-11; Glaser D., 'The state, the market and the crisis', in Work in Progress, No. 34, 1984, pp.32-38.

[49] Murray, South Africa, Time of Agony, p.118.

[50] Community Councils Act 235 of 1977.

[51] South African Institute of Race Relations, Race Relations Survey, Johannesburg, SAIRR, 1977, p.390.

[52] Fick M., 'Administration Boards still rule', pp.9-10.

[53] Cornell V., 'Community councils: puppets, magicians, or fledging local authorities?', in Copper L., and Kaplan D. (eds), Reform and Response: Selected Research Papers on Aspects of Contemporary South Africa, Cape Town, University of Cape Town, 1983, p.6.

homelands". Other hundreds of thousands were excluded from their voting rights because they lived in illegal squatter camps For the black local authority elections in 1988 (which used the same voting criteria), it was estimated[54] that roughly 26 million blacks were excluded from the polls because of this loss of citizenship and Evans[55] states that 2 million Africans in informal settlements were excluded in the greater Durban area alone.

The second objective of the 'reform' was to ease the burden of the provision and management of housing and make it partly the responsibility of the Community Councils.[56] The creation of these new bodies was a vital symbolic shift[57] in that, for the first time, the government was admitting that Africans were not simply 'temporary sojourners' in the cities. But the purpose of the new structure was in fact to ease the political and managerial pressure created by the demand from the black population to live permanently in town.[58] The government was only able to react to the pressure, not to deal with it in its own terms. Given the paltry nature of these concessions to representative democracy, it is little wonder that the Community Councils as well as the Administration Boards became objects of resentment and the targets of resistance.

The last attempt to save the idea of segregated local authorities was the creation of the black local authorities in 1982.[59] The Act established town and village councils which were, after an evolutionary process, to attain full autonomy. This was part of the 'reform' initiated under President P. W. Botha (1978-1989),[60] and should be seen in parallel with the entry of Indians and 'coloureds' into the tri-cameral parliament and the legalisation of 'black' trade unions.

According to Price:

> ... *the Cillie Commission*[61] *findings and the recommendations of the Riekert Commission became part of an evolving programme of urban reform,*

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[54] The Cape Times, 30.05.1988.

[55] Evans R., 'BLAs: Bread-and-blood politics', Indicator SA, Vol. 5 (4), Spring 1988, p.52.

[56] Grest J., 'The crisis of local government in South Africa', pp.87-117.

[57] Christianson, Friedman, Strong Local Government, p.15.

[58] Two court cases illustrate this pressure. The first is the case of Mrs Nonceba Komani, who in August 1980 won the right to live with her husband in an urban area even though she had not been entered by officials on her husband's lodger's permit. The second is the case of Mr Rikhoto who obtained the permanent resident right in an urban area after he had worked continuously for ten years for one employer as Section 10 of the Urban Areas Act required. These two cases are reported in Davenport T. R. H., South Africa, A Modern History, London, MacMillan Press, fourth edition, 1991, p.399. See also Piper S., 'The Rikhoto judgement. Is a family life a right or a privilege?', Indicator SA, Vol. 1 (2), 1983, pp.5-6. For an insight on the problems of influx control, black urbanisation, migrants and squatters, see Giliomee H., Schlemmer L. (eds.), Up Against the Fences. Poverty, Passes and Privilege in South Africa, Cape Town, David Philip, 1985, pp 65-193.

[59] Black Local Authorities Act 102 of 1982. For a general overview see Evans, 'BLAs: Bread-and-blood politics', pp.51-55; see also South African Institute of Race Relations, Race Relations Survey, Johannesburg, SAIRR, 1982, pp.298-303.

[60] On the topic, see Pottinger B., The Imperial Presidency: P. W. Botha-the First Ten Years, Johannesburg, Southern Book Publishers, 1988; Cobbett et al., 'A critical analysis of the South African state's reform strategies in the 1980s', in Frankel et al., State, Resistance, pp. 19-51; Price, The Apartheid State, pp.99-146.

[61] Republic of South Africa, Report of the Commission of Enquiry into the Riots at Soweto and Elsewhere (Cillie Commission Report), Pretoria, Government Printer, 1980. The report concluded that the rebellion resulted in part from poor conditions of living in black areas.

incorporating both the physical upgrading of the township and an alteration in the legal, economic and social status of township residents, particularly those of African descent.[62]

The continued resistance to the apartheid policy[63] through school boycotts, resurgent trade unionism and the revival of Black Consciousness and ANC-related activities, pushed the government to recognise, through the BLA Act, that black people were entitled to the same form of local citizenship as white.

In Natal, 18 local authorities were established after the BLA Act.[64] These enjoyed jurisdiction over approximately 152,000 people.[65] According to the Act, BLAs could:[66]

- own land and other immovable property within their area of jurisdiction;
- alienate, let, allocate, improve and develop these properties;
- allocate leasehold rights to persons with respect to stands;
- with the approval of the minister,[67] obtain mortgages or sell debentures, shares, other securities;
- control patents, licences, concessions, trademarks or the like;
- operate their own financial accounts;
- with the permission of the minister, arrange overdraft facilities at financial institutions;
- impose levies for purposes determined by themselves.

But for these functions to be fulfilled, BLAs needed financial means. As they no longer received income from the sale of liquor, their only solution was to increase rents and service charges. Resistance to this policy led to intense opposition and more violence. As separate entities from the towns and cities run by WLAs, impoverished because of a lack of commercial tax base, and sometimes corrupt, BLAs met once again massive rejection from the back township residents. Rent boycotts and the spread of organised township movements followed.

In KwaZulu-Natal, civic organisations became centres of opposition and alternatives to township councils and more broadly to Inkatha and the KwaZulu state which often controlled councils.[68] Civic associations were formed in almost every one of Durban's formal black townships, making up the membership of the Joint Rent Action Committee (JORAC) established in 1983 to oppose rent and transport fares increases.[69] When JORAC joined the United Democratic Front (UDF) later in the

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[62] Price, The Apartheid State, p.102.
[63] See Seekings J., 'Township resistance in the 1980s' in Swilling, et al., Apartheid City, pp.290-308.
[64] In Durban for example, the Ningizimu BLA included Lamontville and five hostels.
[65] Evans R., 'BLAs: Bread-and-blood politics', p.52.
[66] Poto J., 'The viability of black local authorities', in Heymans C., Tötemeyer G., Government by People? The Politics of Local Government in South Africa, Cape Town, Juta & Co., Ltd, 1988, p.95.
[67] Then the Minister of Co-operation and Development.
[68] Seekings J., 'Civic organisations in South African townships', in Moss G., Obery I. (eds.), South African Review 6. From 'Red Friday' to CODESA, Johannesburg, Ravan Press, 1992, p.219. See for a description of the Pietermaritzburg situation, Hartley W., 'The Maritzburg feuds' in Indicator SA, Vol. 5 (2), Summer 1988, pp.13-15.
[69] Evans R., 'BLAs: Bread-and-blood politics', p.54. See also Bekker S., Singh P. A., 'Negotiating Durban's future', Indicator SA, Vol. 7 (4), Spring 1990, pp.55-58; Fick M., 'Township disturbances. Lamontville 1983',

year, it called for stay aways and boycotts. This was in direct opposition to Inkatha directives and violent confrontation between members of the UDF and Inkatha members/councillors became inevitable.[70] In some townships around Durban and Pietermaritzburg the discontent even took on greater importance in the mid-1980s with the threat of incorporation of some townships into the KwaZulu bantustan.[71]

In Natal, BLAs had not only become a target of the UDF movement fighting against 'puppet councils' of the apartheid regime. Because Inkatha accepted participation in the system and filled the councils' positions, attacking BLAs meant also attacking Buthelezi's followers. Local government thus became an important front in the conflict between the ANC and the IFP.

Since the creation of the Administration Boards, the apartheid regime was forced to open the system of local representation to the black population. The changes were numerous (in twenty five years, four bodies were created and abolished), but only superficial. The government was not ready to proceed to a drastic transformation which would have meant the recognition that black people could not be driven out of South Africa. Instead, cosmetic changes were initiated under pressure, without succeeding in attracting the support of the black population One of the tests was the local election, for all types of local government, which took place on 26 October 1988. In Natal, only ten BLAs (out of 18) held elections and the turn out was 18.74% (compared to a national percentage of 21.66%). Of the 107 available seats, 49 were filled by unopposed candidates and a further 19 attracted no candidates. Two townships (Sobantu[72] and Klaarwater) fielded no candidates and were, as a consequence, run by an official.[73]

The more the government was trying to avoid confrontation by adopting widow-dressing tactics, the more the contestation grew. In fact, the creation of BLAs was central to the intensification of opposition against the regime.

Indicator SA, September 1983, Vol. 1 (2), pp.7-8. In 'coloured' and 'Indian' areas, another organisation, the Durban Housing Action Committee (DHAC) was established in 1980, as an umbrella of civic bodies. See Jaggernath S., 'NGOs and development in South Africa', in Reddy P. S. (ed.), Perspectives on Local Government Management and Development in Africa, Durban, Department of Public Administration, UDW, 1995, p.103.

[70] Mr Harrison Dube, a key organiser of JORAC was assassinated in April 1983 and the chairman of the Ningizimu community council in Lamontville. Mr Moonlight Gasa, was subsequently sentenced to 12 years' imprisonment for his part in the murder. See Jeffery A., The Natal Story, 16 Years of Conflict, Johannesburg, South African Institute of Race Relations, 1997, pp.49-51.

[71] Cf. the conflict over Lamontville, Chesterville, Clermont and Hambanathi for example. See on this topic Minnaar A. de V., Conflict and Violence in Natal/KwaZulu: Historical Perspectives, Pretoria, Human Sciences Research Council, 1991, p.39 ff.; McCaul C., 'The wild card: Inkatha and contemporary black politics', in Frankel et al., State, Resistance, p. 166; Fick M., 'Township disturbances. Lamontville 1983', p.8; Pillay U., 'Local government restructuring, growth coalitions and the development process in the Durban functional region c. 1984-1994', Urban Forum, Vol. 5 (2), 1994, pp.71-72.

[72] In 1984, no residents had submitted their names for the Sobantu community council. See Jeffery A., The Natal Story, p.140.

[73] Indicator Project South Africa, An Overview of Political Conflict in South Africa Data Trends 1984-1988, Durban, Indicator SA Issue Focus Sequel, March 1989, p.28.

1.1.3.2 - Black people in the homelands

Until now, we have considered only the system of local government for the different racial groups in 'white' South Africa. In the homelands a certain form of local government existed, characterised by centralisation and inefficiency in urban areas and "traditionalism" in rural areas.

The urban form of local government in homelands was the R293 township.[74] The creation of settlements in homelands was encouraged from the 1950s onwards in order to accommodate black people leaving 'white' towns. They included urban areas or commuter dormitories.

Local government in R293 townships differed in two principal ways from black local government in 'white' South Africa. In the first place, the control of the state was obvious: R293 townships were administered and governed by a central state department, the Department of Bantu Administration and Development and its successors. When local government was made a responsibility of the self-governing homelands, R293 townships became a toy in the hands of both the central and the homeland governments. Central government shared responsibility with the homelands for most service delivery functions and enjoyed wide-ranging control over finance[75] For example, in the Umlazi town council which was situated in KwaZulu, "political and administrative decisions were made by the homeland government and by the Department of Development and Aid."[76] In those areas, responsibility for infrastructure belonged to the Department of Works of the KwaZulu government (which means that there was no technical capacity in the townships' administration) and the administrative work was ensured by the KwaZulu Department of Interior.

Secondly, the R293 townships never had any financial problems. The relevant Pretoria department[77] continued to subsidise the non-economic service charges without attempting to raise them substantially. For example, the KwaZulu government was retailing water at a considerably lower price than the wholesale price it was paying for it, thanks to subsidies from Pretoria. House rentals remained static despite the ravages of inflation in the 1970s and 1980s. Humphries and Shubane quote[78] the example of an R293 town near Pietermaritzburg where the households paid only R15 a month for services which cost in the region of R100 a month to provide. The charges had apparently barely risen in the last decade. An Inter-Ministerial Committee on the state of local government finance confirmed this finding by stating that "there is some evidence to the effect that service charges in the KwaZulu townships around Durban are significantly lower than in the Durban townships themselves, as a result of grants from the KwaZulu government."[79] KwaZulu was eager to

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[74] These areas were proclaimed R293 townships, according to the Proclamation 293 of 1962.
[75] Bekker S., 'Cities straddling homeland boundaries', in Swilling et al., Apartheid City, pp.108-119.
[76] Christianson D., Township Administration Update, Report prepared for the Urban Foundation, Johannesburg, Urban Foundation, 1988, p.20.
[77] The Department of Development and Aid and later the Department of Co-operation
[78] Humphries R., Shubane K., 'Will the tail wag the dog?', in Indicator South Africa Vol. 9 (4), Spring 1992, pp.87-92.
[79] Inter-Ministerial Committee on the State of Local Government Finance, Discussion Document, p.23.

consolidate its territory and to integrate as many urban and industrial areas as possible. The cheap price of the services was an incentive offered to the black population in order to make them accept the incorporation into the homeland.

The rural areas of the homelands lacked any form of local government, or at least, any "modern" form.[80] In the same way that the central government did not make any provision to cater for black people in "South African" rural areas, because farmers were supposed to take care of them, in the homelands, rural local government did not exist because tribal authorities were supposed to fulfil their functions.

Cloete[81] describes the pyramid of power in the homelands tribal areas, as prescribed by the Bantu Authorities Act:

> *The tribal authority is the smallest unit and is the tribal government functioning in accordance with the laws and customs of the tribe concerned.*
> *...A regional authority consists of two or more tribal authorities. It comprises a chairman designated by the state president and as many members as the state president may determine. The chairman and the members are elected or selected among the chiefs, headmen and councillors of the tribal authorities.*[82]
> *... A territorial authority gathers two or more regional authorities. The members are elected or selected from among the members of the regional authorities.* [83]

Cloete states that the Bantu Authorities Act intended to base:

> *... public institutions for blacks on their traditional institutions...* [It] *sought to give new meanings to the traditional institutions and to give their chiefs and headmen meaningful roles in the government and the administration. The implementation of the system prepared the way for self-government.* [84]

In reality, tribal authorities owed their powers to the apartheid government, which was free to nominate or withdraw any members of a Regional or Territorial Authority. Furthermore, they had little say over local affairs because they were agents of their homeland government. In exchange, areas under tribal authorities were often not required to pay for services.[85]

The very compartmentalised system we have just described, was made up of municipalities with different characteristics according to the racial group (white, Indian, coloured and black) occupying

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[80] Traditional leaders and the IFP in KwaZulu-Natal have constantly claimed that amaKosi are the appropriate form of local government in rural areas.
[81] Cloete J. J. N., Central, Provincial and Municipal Institutions of South Africa, Pretoria, van Schaik, 1982, p.293.
[82] For details on the functions of regional and tribal authorities, see chapter 5, pp.189-191.
[83] Bantu Authorities Act 68 of 1951.
[84] Cloete, Central, Provincial, p.293.
[85] Bekker S., 'Cities straddling homeland boundaries', pp.108-119.

the area. But as we have seen, it was also divided according to whether the area was urban or rural and incorporated into a homeland or not. Not only was this system excessively complicated, but it did not allow any financial or technical transfer from its wealthy to its underdeveloped sectors. As a result, the apartheid government found it more and more difficult to keep the system going.

In a last attempt to change the system but at the same time to retain the ideal of racial separation, the Regional Services Councils were created.

1.2 - The Regional Services Councils

The Botha government recognised the financial and political disaster which the BAABs and their successors had brought in many townships. But it was still trying to render the system sustainable, and this was supposed to be done by facilitating the access of BLAs to money coming from the WLAs. The Regional Services Councils (RSCs) were supposed to be the solution. The Act[86] was passed in 1985 but RSCs were established only in 1987 in Transvaal and 1988 in the Orange Free State. The system differed widely in the Cape, while in Natal the idea faced sustained opposition from the KwaZulu government.

In the words of Minister Chris Heunis:

> ... *in terms of this Act, integrated local government bodies will be established to rationalise area-wide local government services, to provide effective political representation for all (including black) communities in a region, and to generate funds primarily for the development of 'black', 'Indian', and 'coloured' areas.*[87]

Let us look at each of these three objectives separately.

[86] Regional Services Council Act 109 of 1985.
[87] Financial Mail, 23.08.1985.

1.2.1 - The objectives

1.2.1.1 - "to generate funds primarily for the development of 'black', 'Indian', and 'coloured' areas"

Through the imposition of taxes on businesses,[88] largely extracted within white local authorities, BLAs received the necessary money to keep them afloat. In the 1988/89 financial year[89] the Transvaal BLAs received R320 million for capital projects from RSCs, which represented 69% of their income. In the mind of the government, the political legitimacy of the BLAs was dependent on their access to financial resources. According to this logic, providing funds while restricting political activities during the state of emergency ought to have made possible the reconstruction of local government. But financial transfers were not a long-term solution. The assistance was provided for capital projects which did not resolve structural problems like the location of productive enterprises outside 'black' areas. The effect was merely to mask them.

1.2.1.2 - "to provide effective political representation for all (including black) communities in a region"

RSCs consisted of:[90]

- Local authorities. These included municipalities, divisional councils, 'black city councils', town councils, town committees;
- Management bodies. These included local affairs committees, management committees and Community Councils for blacks;
- Representative bodies from communities outside the jurisdiction of any local authority or management body in a region.

Humphries argues[91] that the birth of the RSCs should be considered as an attempt by the government to institutionalise discussion with moderate opposition groups He thinks that the NP had a longer view and that it was "preparing the after-apartheid period". Indeed, the arrival of the RSCs was marked by much political discourse emphasising the need to resolve the crisis in the country. In a speech in 1987,[92] the Minister of Constitutional Development and Planning, Chris Heunis, noted that it was at the local level that the country was rendered ungovernable and that the battle should be engaged at this level. The RSC was a "general affairs institution", dealing with matters common to

[88] The RSCs were entitled to raise two taxes on businesses. The regional services levy is based on a percentage of the wage bill and the regional establishment levy on a percentage of turnover.
[89] Heymans, White, 'Playing politics without the power', Politikon, p.12.
[90] du Toit P., 'Regional Services Councils: Control at local government level', in Heymans, Tötemeyer, Government by People?, pp.63-77.
[91] Humphries R., 'Whither Regional Services Councils?' in Swilling et al., Apartheid City, p.80.
[92] Financial Mail, 23.08.1985.

all races and bringing together representatives of all racial groups. This was a breakthrough because local government had hitherto been considered as 'own affairs' This could have been seen by the most optimistic analysts as a test to determine if an agreement could be reached at a higher level.

The creation of the RSCs was indeed an important symbolic shift.[93] The reform meant that the government finally acknowledged that township residents were citizens of the wider city, not only the part reserved for blacks. But if all local authorities (black and white local authorities as well as local affairs and management committees) enjoyed representation on the councils and boards of the RSCs, it was in proportion to the value of services consumed, measured as the percentage of bulk services used. This ensured that WLAs retained the control of the decision-making process. As Mabin points out,[94] this "solution" did not solve the political problem. Race segregation was retained and most of the opponents of the system saw the reform as a way of strengthening it by transferring money to BLAs and preserving the 'white' control over decisions.

Indeed, a major dimension of the Act was the separation of "political" from infrastructural or "non-political" matters. Local authorities were to remain racially segregated and the fact that white, Indians, 'coloureds' and black were to sit around the same table would not mean the end of apartheid. Heunis commented that:

> *... political participation on local government level will be democratically extended to include...other communities without seriously destabilising the present system of local government.*[95]

1.2.1.3 - "to rationalise area-wide local government services"

Another important goal of the RSCs was to facilitate the provision of local government services on a regional basis. The RSCs Act lists the "general affairs" functions which may become regional.[96] In this long list, due to financial constraints, water and electricity provision as well as refuse removal were the only services taken on by most of the RSCs. The objective of providing services on a regional basis is important, because it is the foundation on which the post-apartheid system of rural and metropolitan local government was to be built. If only the service provision aspect is considered, RSCs seemed to have been a good solution which could last into the post-apartheid era. In rural areas, given the poverty of most of the communities and the extent of their needs, regional bodies enabling financial redistribution from wealthy areas to poor areas and providing basic services where they had never existed, are indeed essential. In large conurbations, a body able to co-ordinate the intervention of tens of different authorities was and still is sorely needed. The fact that the RSCs

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[93] Christianson, Friedman, Strong Local Government, p.16.
[94] Mabin. A, 'Negotiating the shape of metropolitan government', p.3.
[95] Financial Mail, 23.08.1985.
[96] "Bulk supply of water, electricity, sewage purification and disposal, land usage, transport planning, roads, storm water drainage, passenger transport services and traffic matters, abattoirs, fresh produce markets, refuse dumps, cemeteries, crematorium, ambulance, fire brigade and health services, airports...".

were in theory "racially-blind" made it even easier to accept them into the post-apartheid era. The final report of the Thornill Commission[97] which formed the basis of government policy over local government in the last years of apartheid, had predicted the continuing need for these bodies in the rural areas, with the difference that participating local authorities would in future be constituted on a genuinely non-racial basis.

The RSCs were very controversial and received mixed welcomes, ranging from approbation to strong criticisms.

Bekker[98] was rather positive, stating that the RSCs were providing "rationalisation of service provision, a forum for multi-racial decision-making, and would generate substantial revenue" In fact, this optimism was directed mainly to the RSCs governing big cities. Mandy[99] argues that multiracial regional administration opened up tremendous opportunities for the metropolitan development of South African's fragmented cities in terms of cross-subsidisation and planning. According to him, RSCs nurtured "a new metropolitan sense of community in the process of solving overlapping civic problems."[100]

The RSCs are the only bodies created during the apartheid era whose achievements are defended today. Mpho Mofokeng[101] could write that:

> *The RSC brought in R1.8 billion a year. They are local government bodies aimed at the planning, co-ordinating and rendering of services. They also give representatives of all local authorities a voice in decision-making in matters concerning the region.*
>
> *Over the past few years, RSCs have contributed to the broadening of democracy and participation by:*
>
> - *Improving communication between inhabitants and provincial government;*
> - *Increasing regional unity;*
> - *Increasing financial resources;*
> - *Providing resources to support the local authorities;*
> - *Co-ordinating the planning on a regional basis.*

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[97] Report and Recommendations of the Investigating Committee into a System of Local Government for South Africa, commissioned by the Council for the Co-ordinating of Local Government Affairs, (chaired by C. Thornill), May 1990.

[98] Bekker S., 'Cities straddling homeland boundaries', p.110.

[99] Mandy N., 'A metropolitan identity: RSCs and the Rand', in Indicator SA, Vol. 5 (3), Autumn/Winter 1988, pp.13-18.

[100] Ibid., p.13.

[101] Acting national president of the Regional Local Government Association of South Africa, in an interview in The Star, 28.02.1996.

On the contrary, certain authors were critical of the body. According to Cobbett et al,[102] RSCs were unlikely to succeed because:

- The RSCs were based on a system already in ruins. "By April 1985, there were only three [BLAs] still functioning."[103]
- The principle of functioning was undemocratic. The power was reserved to big business and the petty bourgeoisie thanks to the vote system which was using the notion of "user strength".

Other analysts like Cameron,[104] were very critical of the fact that decision-making for RSCs was centralised by government, giving limited powers to contest at regional and local levels According to him, it was the Joint Management Centres[105] and the tri-cameral own affairs departments which were making the real decisions. Indeed, councillors and officials were responsible to the regional offices of the central government's various "own affairs' administrations, which in turn fell under the control of the various ministers' councils in the House of Delegates, Representatives and Assembly. African representatives in BLAs continued to liaise with white officials in the Development Boards which fell under the Department of Constitutional Development and Planning.

1.2.2 - The specific case of Natal

1.2.2.1 - The context

The KwaZulu government fiercely opposed the RSC Act. Chief Buthelezi had warned that in Natal, RSCs could not work without the co-operation of KwaZulu and their introduction was frozen because of the reluctance of the homeland authorities to participate in them.[106]

In fact, according to Pillay[107] and Maré[108] both the United Democratic Front and Inkatha rejected the idea of the RSCs on the grounds that there was:

- A lack of consultation with them in the formulation of the RSC Act;
- A bias towards the wealthy, largely 'white' areas, in the allocation of voting powers;
- An effective entrenchment of racial segregation at local government level from which RSC representatives had to be nominated.

The RSC represented a step backwards in the KwaZulu/Natal political process. Although the new system was promoting co-operation between racially divided local authorities, it was not

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[102] Cobbett W. et al., 'A critical analysis' in Frankel et al., State, Resistance, pp. 19-51.
[103] Ibid., p.32.
[104] Cameron R., 'Centralised control: the Cape of services', Indicator SA, Vol. 5 (3), Autumn/Winter 1988, pp.18-22.
[105] Cf. below.
[106] The Natal Mercury, 01.07.1986
[107] Pillay U., 'The RSC debacle in Durban' in Smith, The Apartheid City, p.198; Pillay U., 'Local government restructuring', Urban Forum, pp.69-88.
[108] Maré G., Forsyth P., 'Natal in the new South Africa', in Moss, Obery, South African Review 6, p.144.

concerned with collaboration between 'white South Africa' and the homelands. This question was not taboo in Natal where, as early as 1978, the Sugar Association which wanted to avoid further loss of land to the consolidation of the KwaZulu homeland, appointed the Lombard Commission to investigate alternatives to consolidation. In 1979, the commission's report[109] stressed the political inter-dependence of Natal and KwaZulu and proposed measures for regional government.[110] In addition, the goal of a rapprochement between KwaZulu and Natal had been one of Buthelezi's claims for a long time. In March 1980, the Inkatha central committee launched the Buthelezi Commission to look into the possibility of constituting KwaZulu and Natal as a single self-governing unit. The Report (1982),[111] argued for the political unification of the two entities under a form of consociational democracy. Even if the central government was not ready at once[112] to follow its conclusions, the Buthelezi Report was received with interest by the 'white elites' in Natal. As Johnston points out:

> *... Natal's ambivalence about the Union, rejection of the Republic and durable identification with its own colonial origins and English ethos, have contributed to a sense of separateness from the wider 'white' policy... The mutually reinforcing alienation between Natal and the central government disposed white elites in Natal to consider separate negotiations with black political forces.*[113]

The Buthelezi report influenced the KwaZulu cabinet and a group of Natal politicians[114] who reached an agreement in 1984 to co-operate on common problems. This led to the creation of a Joint Executive Authority (JEA)[115] between KwaZulu and Natal in 1986 and the convening of the KwaZulu/Natal Indaba.[116] In this context, one can understand why the RSC Act was considered by politicians in KwaZulu and Natal as a threat to all the efforts made toward a rapprochement.

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[109] Lombard J. A. (ed.), Alternatives to the Consolidation of KwaZulu, Pretoria, Bureau for Economic Policy Analysis, Pretoria University, 1979.

[110] Ibid., p.142.

[111] Buthelezi Commission, The Requirements for Stability and Development in KwaZulu and Natal, Vol. 1 and 2, Durban, H+H Publications Ltd, 1982.

[112] After rejection by the National Party and the New Republic Party (NRP) in 1982, Buthelezi's proposals became more and more attractive to the NP and the NRP after the creation of the United Democratic Front in 1983 and the boycott campaigns. "It was in 1985 in the midst of a nation-wide uprising and its own restructuring of second-tier government... that [the state] began to give affirmative signals regarding the [Buthelezi Commission's] Report". McCaul C., 'The wild card: Inkatha and contemporary black politics', in Frankel et al., State, Resistance, p.156.

[113] Johnston A., 'The political world of KwaZulu Natal', in Johnson R. W., Schlemmer L. (eds.), Launching Democracy in South Africa, The First Open Election, April 1994, New Haven and London, Yale University Press, 1996, p.169.

[114] "The Progressive Federal Party (PFP) and NRP orientated councillors dominated the larger city councils, and their party-political allegiances made them negatively disposed towards NP-sponsored constitutional reforms." McCarthy J., 'The last metropolis: RSC stalemate, Indaba checkmate', Indicator SA, Vol. 5 (4), Spring 1988, p.46.

[115] The Joint Executive Authority was a body comprising members of the Natal provincial legislature as well as the KwaZulu legislature. Its aim was the common planning of services provision.

[116] The Indaba was the forum where proposals were formulated concerning the forms of collaboration between KwaZulu and Natal. It was dominated by representatives of capital, political parties already participating in

It seems that Inkatha (one of the major promoters of Indaba) felt that its initiatives at consolidating the region administratively and politically, which involved years of hard work and co-operation were being pre-empted by the government-created RSCs.[117]

Instead, under Buthelezi's leadership, another structure was adopted, the Joint Services Boards (JSBs).[118] The JSBs were modelled on the RSCs but two differences between the two bodies stand out. First, they did not only cover areas in Natal but also in KwaZulu, giving a regional meaning to the existence of the Joint Executive Authority. Furthermore, the pivotal role played by the provincial Administrator in the RSC system, which made the RSC a simple puppet at the hand of the provincial representative of the state,[119] was assumed in KwaZulu and Natal by the JEA on which representatives from KwaZulu and Natal had a seat (all five MECs from the province and all 5 ministers from the KwaZulu government). "Instead of being appointed by the National Party, all the chairmen of JSBs were chosen in 1991 by the Natal and KwaZulu governments (executive members of the province and ministers of KwaZulu)."[120]

1.2.2.2 - The image of the JSBs

A positive image of the institution is given by most of the officials and some of the councillors who worked in the JSBs. For example, in one of its publications,[121] the Thukela Joint Services Board emphasises the fact that the board played an important role in building democracy because:

- It broadened effective participation by bringing government closer to people;
- It involved them in decision-making and planning processes which affected them.

The former chief executive officer (CEO) of the Thukela JSB[122] likes to stress the links JSBs succeeded in establishing with rural communities:

The JSB tried to consult people and established contacts with them through their section 11 committees. The JSB was divided into sub-regions and a section 11 committee was appointed in each. Their role was to identify the

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state structures and second and third tier government in the region. The Conservative Party and the United Democratic Front refused to participate. For more information on the Indaba see Maré G., 'Inkatha - by grace of the National Party?', in South African Labour Bulletin, Vol. 13 (3), March/April 1988, pp.64-73; Indicator Project South Africa, New Frontiers, The KwaZulu/Natal Debates, Durban, University of Natal, October 1987; Indaba, A Leadership Publication, Cape Town, Churchill Murray Publications, 1987.

[117] Pillay U., 'The RSC debacle in Durban' , p.199.

[118] KwaZulu and Natal Joint Services Act, No. 84 of 1990.

[119] When the provinces were abolished in 1986, the new Administrators (nominated by the State President) with the concurrence of various ministers (primarily responsible to the Minister of Constitutional Development and Planning) had the right to appoint or remove the chairman of each RSC. The chairman was constitutionally the agent of the government. See Craythorne D. L., Municipal Administration, A Handbook, third edition, Kenwyn, Juta & co Ltd, 1993, p.31.

[120] Interview with cllr Willie Schoeman, Newcastle, 21.04.97. He was the chairman of the uThukela JSB.

[121] Thukela Joint Services Board, Bringing Government to the People, Ladysmith, Thukela JSB, May 1994, p.4.

[122] Mr Cassie Rautenbach who is presently chief executive officer of the uThukela regional council, one of the two successors of the Thukela JSB. See maps in annexes II and III. .

needs and prioritise them. They were composed by representatives of local authorities, business, NGOs and other role players. The JSBs were also instrumental in setting up some development forums who were consulted by the JSB on the needs of the rural population.[123]

The same feeling is expressed by the former CEO of the Port-Natal Ebhodwe JSB: "we had a massive input in the life of the rural people. One could not ignore our role in development."[124]

On the other hand, academics and members of NGOs interviewed for the purpose of this study, strongly criticised the JSBs stating that they "have been built on the basis of ethnically-based local authorities and excluded a large section of population (especially farm workers.)"[125] Indeed, rural areas were mainly represented on the board by regional authorities and the agricultural unions. In the Midlands JSB for example, "46 amaKosi sat on the board".[126] Despite the existence of section 11 committees, the rural population found it hard to relate to the JSB. The Regional Consultative Forum reported[127] that in the Midlands JSB, despite the fact that "rural development committees have representatives who sit on Section 11 committees which enables civil society to be heard", community representatives complained about:

- Difficult and complex procedures to process applications for JSB funds;
- Certain areas in the Midlands being favoured over others for the granting of funds;
- Disproportionate influence of white commercial farmers;
- Unrepresentative and undemocratic practices.[128]

The RSCs and the JSBs are the only bodies created in the apartheid era which have not met total rejection. This is because they allowed for the first time a financial redistribution from the white areas to the black townships and the tribal areas. This principle enabled continuity with the post-apartheid era. Under the name of transitional metropolitan councils and regional councils, these bodies attempt to redress the imbalances between rich and poor areas. However, the provision of 'effective political representation' through these bodies is still a contentious matter.

Another characteristic of the local government system, apart from its compartmentalised nature, was the lack of power of the different local authorities. Studying the scope of action and initiatives they enjoyed, one could easily call them "local management bodies", at best.

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[123] Interview with Cassie Rautenbach, Ladysmith, 27.09.1996.

[124] Interview with Mr Buks Pretorius, present chief executive officer of the iLembe regional council, Durban, 05.09.1997.

[125] McIntosh A., 'Towards a new rural local government system in South Africa: Possible options', in Transformation 23 (1994), p.76.

[126] Interview with Mr Brian Edwards, presently NP member of the provincial assembly, Pietermaritzburg, 27.08.1997. He is the former chairman of the Midlands Joint Services Board (1991 to 1996). He also belonged to the Provincial council of Natal in 1981, then was part of the Joint Executive Authority.

[127] Regional Consultative Forum, Service Delivery and Progress Toward Local Government in Rural South Africa, Durban, RCF, December 1995, p.10.

[128] Ibid.

2 - Centralist apartheid state

The apartheid state could not have been anything than centralist. Its main purpose was to enforce the innumerable regulations which restricted by all means the freedom of the large majority of the population. For this, it had to control every aspect of life. In this context, local government was no more than an agent of the central government.

2.1 - Local government as agent of the government

Croser[129] lists the minimum criteria for a power to function independently. These are the determination of:

- Activities, objectives, policy;
- Executive organisation;
- Personnel recruitment;
- Work procedures.

Financial autonomy means the:

- Generation and allocation of funds;
- Capacity to finance current expenditure;
- Freedom to chose which resources are to be exploited and to what extend.

By those standards, we would agree with him that there were no local authorities in South Africa in 1987, before the transformation process of local government. While this is obvious for BLAs and R 293 townships, it can also apply to WLAs to the extend that they define and implement their own policies only to a very limited degree.

2.1.1 - Definition and implementation of policies decided at central level

State interference in local government affairs increased with the gradual implementation of apartheid after 1948. H. F. Verwoerd made the position and status of local government clear when he said, speaking of apartheid, that "local authorities are the agents of the state with respect to the execution of such policy."[130] Local authorities were at the bottom of the state pyramid and had to enforce apartheid laws, notably the Group Areas Act of 1950.

First, local authorities could not implement policies which threatened deviation from the terms of the Act. The government was quick to react to some reformist positions taken by local authorities. The most notable were those of the Durban and East London city councils in 1986, when they tried to open some residential areas to all race groups. As Heymans points out:

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[129] Croser G., 'Autonomy in local government finance', in Swilling et al., Apartheid City, p.139.
[130] Cameron R., 'The institutional parameters of local government restructuring' in Heymans, Tötemeyer, Government By the People?, p50.

> *... the unequivocal and immediate rejection of the standpoints of these two city councils by .. Chris Heunis, makes it difficult to comprehend the frequently stated aims of devolution and decentralisation.*[131]

In an article[132] which gives a very good insight on the changing relations between the central and the local states in the implementation of apartheid, Maharaj, in the context of Durban, notes that:

> *In the apartheid state, local authorities were the pawns to implement its policy of social segregation. Local states' responses were significantly influenced by their constituencies, which led to continuities as well as conflicts between the state tiers. By the early 1960s, there was evidence of increased central state control over the local state, and the space for local opposition to central politics was significantly reduced.*[133]

Secondly, local authorities were prevented from exercising one of their most important roles in a "normal" situation: the shaping of the city. The state controlled the residential pattern and local authorities had, for example, to demarcate their recreational facilities on racial basis (Separate Amenities Act, 1953). Besides, with the Bantu Affairs Administration Act (1971) they lost control over their townships. With the Act, what emerged was a city more structured and quartered than anything which had preceded it. This was a "centrally-controlled urban design."[134]

The important consequence of this state of affairs is that the meaning of the notion of 'autonomy of local authorities' became uncertain, even for specialists in local government. Writing in 1991, Doreen Atkinson, equates municipal functions with implementation of government's decisions:

> *BLAs compared to the Community Councils, had significant formal municipal powers* (emphasis added). *They were responsible for implementing* (emphasis added) *some of the most unpopular aspects of government policy: collecting rent, increasing rentals, evicting defaulters and allocating houses in conditions of great material scarcity.*[135]

The municipal powers are clearly in this quotation, powers to implement, not power to decide what would be suitable for the community, nor to represent local initiatives.

Thus, local government had been considered by "the higher tiers" of government, and even by academics, as an implementing agent rather than an expression of local democracy. It is no surprise that political parties did not find it necessary to compete at local councils' level[136].

2.1.2 - Consequence: No political parties at local government level

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[131] Heymans C., 'The political and constitutional context of local government restructuring', in Heymans, Tötemeyer, Government By the People?, p.46.

[132] Maharaj B., 'The Group Areas Act and community destruction in South Africa: the struggle for Cato Manor in Durban', Urban Forum, Vol. 5 (2), 1994, pp.1-26.

[133] Ibid., p.20.

[134] McCarthy J., 'The divided city. Group areas and racial segregation', Opening the Cities. Comparative Perspectives on Desegregation, Indicator SA Issue Focus, September 1990, p.12.

[135] Atkinson D., 'Local government', South African Human Rights and Labour Law Yearbook 1991, p.150.

[136] However the contrary is not necessarily true, i.e. cities with considerable power (such as Toronto) are not governed by formal political parties.

The idea that "local government should only be of an administrative character and should not be mixed up with matters of national policy"[137] was generally accepted and had serious consequences, as we will see, for the participation of political parties at local government level.

Except for big cities such as Johannesburg, where the Progressive Federal Party (PFP) controlled the council at the end of the 1980s, local government was never considered as a level of government where political choices were made. Schlemmer states that:

> *Traditionally, white municipal politics has been the preserve of promises about grass verges, sidewalks, streetlights and refuse removal. Over past decades part-time or small-time politicians have attracted mediocre or worse turnouts at the polling booths in the course of building careers which have gone unnoticed outside of listless ratepayers associations and the middle pages of local newspapers.*[138]

Political competition was seen as very negative (only "bringing trouble") at local level. Purcell notes in the Durban context that:

> *There are a few exceptions to the generalisation that political parties do not play a role in municipal politics. The United Party has used its organisation to support council candidates in several wards, while in 1968 one councillor was elected with National Party support. The party organisations which play a part here are not the official parties, but a few locally orientated groups - usually organised around one or two individuals who are locally party activists. Party support for a candidate is kept in the background since it is generally regarded as improper.*[139]

In Durban in the 1980s, candidates for positions of local councillor had to compete as independents, even if Progressives were playing an important role in the council.[140] A member of the PFP admitted that he had to stand as an independent for some Durban local elections in the 1980s, because his party "didn't see local government as a political level."[141]

An example of the total differentiation local councillors made between their political affiliation and their council position is given by the attitude of the former mayor of Kokstad. Councillor Gartrell, interviewed for the purpose of this study, stated that he joined the DP a "long time ago. I sit

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[137] Floyd, Better Local Government, p.146.
[138] Schlemmer L., 'October 1988: Dress rehearsal without script', Indicator SA, Vol. 5 (4), Spring 1988, p.8.
[139] Purcell, Durban, South Africa, p.77.
[140] The Progressives (later the Progressive Federal Party) played a dominant role in the Durban City Council from the elections of 1978. See Freund W. M., The Changing Role of the Local State as a Factor in Economic Planning and Development, (forthcoming).
[141] Interview with Crispin Hemson, former Durban City councillor, Durban, 04.06.1996.

in the provincial executive committee of the party but I never mixed my political position with my mayorship (between 1991 and 1996)." [142]

Municipal elections in South Africa featured minimal open or direct involvement by the major 'white' political parties because of limited political autonomy All the key so-called local issues resided within the domain of national political power despite the government rhetoric about devolution and local autonomy.[143] Candidates under political banners only began to appear during the 1988 elections. Humphries argues[144] that the timing of these local elections partly explains their political significance. They were considered as a "mid-term evaluation of the ruling National Party". Schlemmer adds[145] that "the municipal contest on 26 October [1988] will be a dress-rehearsal of how voters from all race groups are likely to respond to national political developments."

The third tier of government had in any case already been at the centre of the struggle against apartheid for some time. Seekings states that:

> ... *most civics campaigned against the* [local] *elections, calling for boycotts on both national grounds (because the council was a substitute for national political rights) and local grounds (because the councils were corrupt, lacked resources, and were responsible for rent increases and the lack of development).*[146]

In the 1980s, the contradictions of apartheid became obvious and political groupings were trying to contest the monopoly of the National Party, on its left (which was not so new) and also on its right. On the left of the NP, it was the rejection of the 1983 tri-cameral constitution by the white Progressive Federal Party which provided momentum for its resistance. Having lost the 1983 referendum,[147] the PFP decided that its role as an opposition party required it to remain in Parliament and oppose. The 1988 elections signified for the liberals, an "intensification of their fight against apartheid."[148] On the NP's right, the Conservative Party (CP), created in 1982, entered into a confrontation mode with the NP in a series of parliamentary by-elections in 1982 and 1983. It was during the 1988 local elections that the CP became a political force at the local level, especially in the Transvaal (it won two-thirds of local government structures in the province).[149] For the CP, the challenge of the municipal elections was to gain control of as large a number of municipalities as

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[142] Interview with cllr Gartrell, DP councillor in the Kokstad TLC, former mayor of Kokstad, Kokstad, 21.02.1997.

[143] The way central government did not permit the CP-dominated towns to implement their own policies after the 1988 elections illustrates this. See Pretorius L. and Humphries R., 'The Conservative Party and local government' in Swilling, Humphries, Shubane, Apartheid City, pp.309-321.

[144] Humphries R., 'The new white municipal politics', Indicator SA, Vol. 6 (1/2), Summer/Autumn 1989, p.13.

[145] Schlemmer L., 'October 1988', Indicator SA, p9.

[146] Seekings J., 'Civic organisations in South African townships', in Moss G., Obery I, South African Review 6, p.220.

[147] The 1983 referendum was organised to test the white support to the constitutional reforms.

[148] Argus, 10.09.1988.

[149] Pretorius L., and Humphries R., 'The Conservative Party and local government', p.310. On the CP results in the 1988 local elections, see also Bekker S, 'Has the Conservative Party bandwagon slowed down?', Indicator SA, Vol. 6 (1/2), Summer/Autumn 1989, pp.9-11; Humphries R., 'The new white municipal politics', pp.13-15.

possible to obstruct the reform measures of the government. The CP-dominated councils tried to bring back apartheid regulations and to design secure "whites-only" facilities, openly opposing the new policy of the National Party.

In the 1988 elections in Durban and Pietermaritzburg, a large number of the candidates for the local elections aligned themselves with the "Durban 2 000 Group" or "Pietermaritzburg First" which were seeking to keep party politics out of the municipal elections[150] But it seems that the real issue was not so much the presence of political parties in council as the presence of the National Party. The leader of "Durban 2 000", Bobby Logue, was reported as saying[151] that "it is vital that the city of Durban does not fall under the control of the NP" In Pietermaritzburg, the slogans of the "independents" was "Keep the Nats out" and avoid "Pretoria's control". The electoral battle was indeed, in a more or less hidden form, a battle between political parties (in Durban the NP and CP against the "liberal alliance") and on national issues such as the desegregation of beaches and the Group Areas Act. Cities such as Durban were beginning to tackle political issues which touched the heart of the apartheid policy. Atkinson mentions[152] the topic of alternatives to the LAC system which was investigated by the Durban City Council in 1986.

On the eve of the 1988 local elections, Schlemmer commented that:

> *.. local politics are particularly closely intertwined with national political dynamics as the 1980s draw to an end. There have been times in the past when this has been the case - in the 1920s and again following the township protests of 1976 - but today's politicisation is probably unprecedented ...*[153]

Although throughout the apartheid era, the idea of local government in 'white' areas as an agent of central government was well-entrenched, the crisis of the mid-eighties saw the beginning of local initiatives and contests even in Afrikaner politics. This phenomenon threatened directly the NP government, which tried to control by any means local government initiatives.

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[150] Sunday Tribune, 11.09.1988.
[151] Ibid.
[152] Atkinson D., 'Shaping a post-apartheid city', Indicator SA, Vol. 5 (4), Spring 1988, pp.11-14.
[153] Quoted in The Weekly Mail, 30.09.1988. See also Schlemmer L., 'Liberal white opposition. The strategic dilemma', in Indicator SA, Vol. 5 (3), Autumn/Winter 1988, pp.9-12 and Schlemmer L., 'October 1988: Dress rehearsal without script', pp.8-10.

2.2 - Central control over local government

2.2.1 - The control of the two new Parliaments over the Indian and 'coloured' local authorities

Local affairs committees and management committees were controlled until 1984 by the 'white' legislature. With the introduction in 1984 of the tri-cameral parliament and the distinction between 'general' and 'own' affairs, Indian and 'coloured' local authorities were supposed to take their 'own affairs' over. A House of Representatives (for 'coloureds') and a House of Delegates (for Indians) were created, in parallel with the House of Assembly for the white community. Each community was represented by a Chamber, which controlled the ethnic local authorities through a Department of Local Government The tri-cameral system made the institutional basis of local government even more complex without extending real autonomy to 'coloured' and Indian local authorities.[154] They no longer depended on the provinces but on the Department of Local Government in each chamber. The only exceptions were black local authorities, which were still directly controlled by central government.

2.2.2 - Control of the government over the 'black' areas

There was an official and an unofficial control of black areas by the apartheid regime.

The 'black' municipal system, despite changes in nomenclature (Urban Bantu Councils, Community Councils, BLAs) remained openly under the strong control of the Department of Development and Aid (later called Department of Co-operation and Development and Department of Constitutional Development and Planning). With the creation of the BLAs, the minister became responsible for the determination of the number of councillors to be elected. If some BLAs were given powers to perform a number of truly municipal functions (employment of staff, acquisition and disposal of movable and immovable property), it was the minister who could increase the number of functions.[155] Moreover, when black councillors resigned under community pressure in the mid-1980s,[156] the provincial administrator could appoint, thanks to the Black Local Authorities Amendment Bill of June 1988,[157] officials to act in the name of the council. Some of these appointees were town clerks of white municipalities, former Development Board officials or town clerks of affected BLAs. This situation did not really shift the balance of power from councillors to

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[154] In theory, the Local Government Affairs Amendment Act (1985) could have eventually led Indian and 'coloured' local authorities to autonomous self-governing municipal status, but in practice, the Administrator had to decide what their status would be.

[155] Craythorne, Municipal Administration, p.7.

[156] At the end of 1990, 21% of the councils' seats were vacant in Natal according to Heymans and White, 'Playing politics without the power', p.9.

[157] See Mandy N., 'A metropolitan identity: RSCs and the Rand', p.17.

officials because they had exercised it from the start. The resignation of councillors only starkly exposed the true power relations. As Shubane puts it:

> *... local governments for Africans were a means of control, exercised through officials appointed by the WLAs under which local government for Africans existed. Later, the control shifted to the government, through the Administration Boards. Until 1982, local government for Africans was run by officials.*[158]

With the declaration of the state of emergency in 1985, black local authorities were not only controlled, they were integrated into the overall National Security Management System (NSMS), a web of semi-secret organisations used by the government to counter unrest.[159] The NSMS was created just after the collapse of Alexandra Town Council in May 1986. Its purpose was to establish direct lines of communication and co-ordination from local level to the topmost tier of government.[160] The NSMS comprised the State Security Council, a secretariat, different committees and some 500 Joint Management Centres (JMCs) at regional, metropolitan and local levels. They were part of the total strategy approach and created links between the military apparatus and local government structures.[161] The JMCs network had representatives of the various State Security departments, of selected other government departments, of local authorities and of the private sector. The role of the JMCs was to anticipate unrest, arrest the activists and develop some socio-economic programmes designed to ameliorate key grievances.[162] Often, local JMCs co-ordinated the provision of infrastructure in the townships and by 1988, had channelled funds to 34 troublesome areas. In total, 1,800 urban projects were launched in 200 townships, but there was no evidence that this increased the credibility of the BLAs. In 1990, the NSMS network was formally abolished.

In KwaZulu-Natal, Inkatha, as the representative of the homeland, became directly involved in these activities. Through its participation in local councils, some of its members joined the JMCs, thus forming direct links with government security personnel.[163] According to Jeffery:

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[158] Shubane K., 'Black local authorities: a contraption of control' in Swilling, et al., Apartheid City, p.65.

[159] On the security network at local level see Seegers A., 'Extending the Security Network to the local level', in Heymans, Tötmeyer, Government by People?, pp.119-142 ; and Swilling M., 'City politics comes of age: strategic responses to local government restructuring' in Schrire R. (ed.), Critical Choices for South Africa, Cape Town, Oxford University Press, 1990, pp.411-427.

[160] Jeffery, The Natal Story, p.111.

[161] Heymans, White, 'Playing politics without the power', p.4.

[162] According to Evans, "comparative pool data available for eight townships, including some major areas upgraded through the security system, suggest that upgrading has not substantially advanced the image of BLAs (measured in terms of increased voter turn-out)" See Evans R., 'Participation vs. boycott scenarios. Assessing BLA election data', in Indicator Project South Africa, An Overview of Political Conflict in South Africa Data Trends 1984-1988, Durban, Indicator SA Issue Focus Sequel, March 1989, p.29.

[163] Bekker S. (ed.), Capturing the Event. Conflict Trends in the Natal Region 1986-1992, Durban, Indicator SA, Issue Focus, 1992, p.26.

> *... this further cemented the alliance between Inkatha and the security forces - born of their common enmity against the UDF - and drew them together into operations designed to attack and kill the activists belonging to the UDF.*[164]

It could be considered as "normal" that 'black areas' were closely controlled by the relevant Pretoria ministries because of fear of unrest. What is more surprising is the lack of autonomy of white local authorities, despite the on-going governmental rhetoric on the necessary devolution of power.

2.2.3 - No constitutional protection for 'white' areas

The South African system of local government has never had any form of constitutional safeguards. Neither the South Africa Act of 1909 nor the 1961 constitution made reference to the right of local authorities to exist.[165] The distribution of powers and functions between local and central government was determined by the doctrine of *ultra vires*, which meant that local authorities wielded only the powers granted to them by higher tiers of government.[166] They were unable to expand their range of operation unless explicitly authorised by central government.[167] As municipal powers did not "belong" to local authorities but were merely delegated to them by the National Assembly, any ordinary parliamentary session could change the entire system. This tradition has since 1948 enabled central government to erode the powers of local government, primarily in an attempt to enforce apartheid.[168]

As we have seen, the government and parliament over-ruled many of the decisions of local authorities. Between 1986 and 1989, the central government denied the right to white local authorities to desegregate facilities (Port Elizabeth, Durban, East London) or to negotiate with civics[169]. This power of the central government over local government was used both ways. In a totally different context, when the National Party agreed to the negotiations with the ANC, the Provincial and Local Authorities Affairs Amendment Act (1992) extended the powers of the provincial Administrators, enabling them to over-rule the decisions of conservative white local authorities (because some of them had refused to implement the Interim Measures on Local Government Act).

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[164] Jeffery, The Natal Story, p.112.
[165] Cameron R., 'The institutional parameters', p.50.
[166] To act *ultra vires* for a local authority is to go beyond the functions allocated specifically by statute (Acts of Parliament) to local government. See Mellors C., Copperthwaite N., Local Government in the Community, Cambridge, ICSA, 1987.
[167] Craythorne D. L., Metropolitan Municipal Government for Greater Cape Town, Rondebosch, Unpublished PhD Thesis, University of Cape Town, 1982, p.122. See also Green L. P., Municipal Government in Natal with Special Reference to Durban, Unpublished PhD dissertation, University of Natal, 1953.
[168] Christianson, Friedman, Strong Local Government, p.13.
[169] However this did not prevent some of them from negotiating with civics (East London, Port Alfred, Cape Town, Stutterheim).

At national level and besides direct involvement of the state in the local affairs of a municipality, a plethora of technical laws was used to reduce the freedom of the third tier. The most important were the:

- Local Authorities Loans Fund Act of 1984 (which expanded the borrowing of local authorities but centralised its control);[170]
- Remuneration of Town Clerks' Act (No. 115, 1984) which vested their conditions of service no longer in the hands of the local authorities but directly in those of the Minister of Constitutional Development and Planning. The government's views were that local authority employees must be regarded as a subsection of the civil service because they were paid by taxpayers. It was a way of controlling town clerks.
- Promotion of Local Government Affairs Amendment Act (No. 116, 1984) which increased the powers (initially vested in the Administrators' hands) of the Minister of Constitutional Development regarding the establishment, dissolution or combination of two local authorities.

The Administrator could also frame "standard by-laws" which may be adopted by the municipal councils. From 1986, he could remove from office any councillor or an entire council if they could be held responsible for the failure of the council. He could replace him or them by the person(s) of his choice.[171]

As a consequence of the centralist approach outlined above, at the end of the 1980s, local government in South Africa was extremely weak, had minimal political autonomy from the centre, no constitutional status, and its powers and functions were extremely restricted.

WLAs had been reduced to near political impotence. While some larger WLAs were notable exceptions,[172] there was little tradition of or inclination to strong local government on which a new system could be built. The legacy of subordination and limited capacity had left local authorities ill-equipped to foster development.[173]

It remains now to outline the main consequences of the apartheid system of local government for the post-apartheid period.

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[170] Grest J., 'The crisis of local government in South Africa', p.104.
[171] Cameron R., 'The institutional parameters', p.56.
[172] Because of their capacity, bigger local authorities could bargain. They were controlling large budgets, employing experienced staff and developing their own momentum. For example, cities like Cape Town, Durban, Johannesburg and East London had been lax or unwilling to apply measures such as influx control and residential segregation.
[173] Christianson, Friedman, Strong Local Government, p.19.

3 - A few legacies for the post-apartheid system of local government

3.1 - A legacy of illegitimacy

Local government suffered from a very bad image. Firstly, the centralised attitude towards local government was entrenched to such an extent that there were grounds for doubt that the government would abandon its hegemonic behaviour, even with the end of apartheid. This was confirmed in the 1993 interim constitution whose principle XIX (Schedule 4), limited the powers of the local level. The national and provincial powers included that of performing functions for other tiers of government on an agency basis. This meant that any service listed in Schedule 2 of the Local Government Transition Act could be returned to the provincial or national level. There were grounds for doubt also that local authorities would cease to consider themselves as subordinate. After 80 years of domination, and of applying apartheid regulations, officials as well as elected councillors could be ill-equipped for a new situation in which they are asked to be pro-active and innovative.

The second image associated with local government is one of collaboration with apartheid government. Because local government helped to entrench the separation between races and because it was at the local level that apartheid was the most visible and hurtful, local government came to be considered as an essential component of the apartheid system. BLAs were the product of the country's colonial past.[174] They were based on the idea that only whites could have social, political and economic power, while the townships played the role of labour reservoirs and provided markets for the manufacturing sector of economy.

The picture is less clear for the RSCs and JSBs, because they were "colour-blind" and tried to establish a system of redistribution from the wealthier to the poorer areas. But, it is difficult to forget that the RSCs and JSBs were created "in an attempt to prop up collapsing black local authorities and calm political tensions by channelling funds to 'black' areas."[175] Although they transcended apartheid boundaries geographically, "they still operated in support of an apartheid institutional environment."[176] Nonetheless, as we shall see, the ANC government chose to retain those structures in rural areas with minimal changes. When the structure and the personnel are retained, it is reasonable to wonder what kind of legitimacy the institution is likely to enjoy and what kind of changes it is able to bring.

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[174] Shubane K., 'Black local authorities: a contraption of control', p.64.
[175] Ministry of Constitutional Development, Green Paper on Local Government, p.5.
[176] Morris M., Barnes J., KwaZulu Natal's Rural Institutional Environment: its Impact on Local Service Delivery, Land and Agricultural Policy Centre, Working Paper 49, August 1996, p.12.

The third image is one of corruption.[177] During the 1980s, the KwaZulu-Natal Planning Committee discovered for example that while more than 3,000 families were on the waiting list for houses in Umlazi, some members of the Umlazi town council had allotted themselves private sites and had started reselling these to private property developers.[178] Most of the time, the official received the rent payments, handed over the receipts, threw the receipt book away when it was full and pocketed the cash. In a context of scarcity of resources and relaxation of regulations (for example regulations about ownership of houses in BLAs), temptations were great.

Local government corruption was sometimes a factor in township unrest after 1990. Claude[179] reports that in Wembezi (now part of the Estcourt TLC in the Midlands), the political conflict began in 1989 with the UDF mobilising against the lack of infrastructure and because "accusations of corruption were levelled at a local councillor". The quantity of such corruption is not as important as the fact that residents believed it to be extremely widespread.

It has to be noted here that corruption was not restricted to black areas. Purcell notes that the James Commission (1966) on the management of the Durban municipality:

> *.. illustrates that a multitude of minor decisions - individual zoning exceptions, the prices paid for land owned by councillors, the paying of minor bribes for advance information on town planning and the removal of traffic tickets - were controlled by special personal relationships.*[180]

3.2 - The "myth of total participation" cultivated during apartheid time

Taking material conditions affecting African residence out of the hands of the white local authorities in 1971 had seemed a powerful form of control at the time, but its long-term effect was to weaken the functioning of the apartheid city, create new political targets and encourage new forms of organisation to assault those targets. The actions in the street were carried out by teenagers and young adults, but youth problems were not the major causes of the unrest in the 1980s. An ANC leaflet[181] in 1985 called on the people to:

> *... make the apartheid system more and more unworkable and the country less governable... to replace the collapsing government stooge councils with*

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[177] The legacy of maladministration can still be felt today. The Sunday Independent (01.02.98) reported on the difficult work of the Gauteng Home Truth Commission. Its object is in former black areas, to bring light to housing irregularities in the apartheid era. "Dishonest officials working in black administration offices took advantage of the pass laws during the apartheid years to cheat people out of their homes and make a quick buck".

[178] Sunday Tribune, 03.05.1987.

[179] Claude N., Johnson R. W., 'Wembezi: some cause for hope', in KwaZulu-Natal Briefing, No. 6, March 1997, p.22.

[180] Purcell, Durban, South Africa, p.238.

[181] ANC leaflet: "ANC call to the nation: the future is within our grasp, May 1985. Quoted in Botha T., 'Civic associations as autonomous organs of grassroots' participation', in Theoria, No. 79, May 1992, p.64.

peoples' committees in every block which could become embryos of people's power.

Since 1989-90 many civics had been involved in a range of negotiations as if they were representatives or elected local councils as well as being involved in aspects of 'people's power' such as informal justice. This was the result of the collapse of the local state.[182]

Speaking about the mass movement organised to destroy local government, Boraine noted that:

> *... within organisations, the emphasis is on mass participation of ordinary people, rather than on professional politicians, intellectuals or those who are 'educated'. This is related to a strong vision of a future society that relies on the collective involvement of all, rather than on the inspired leadership of a few.* [183]

Shubane, at the same conference, spoke about the:

> *... people's power period which was characterised by the rejection of official BLA structures and the building of alternative structures like street committees.*[184]

There was an idealisation of a movement which began at "grass-roots" and succeeded in leading the revolt and a rent struggles which assumed a national character in 1985. For most of the opponents of the apartheid regime, at least at the end of the 1980s, the way ahead was to create a new system in which "people" or "the community" (without really reflecting on the meaning of those concepts) could continue to express directly what they wanted and thus shape themselves the "new South Africa".[185] This rhetoric is still found in the debate between the rival tenets of representivity and direct democracy at the end of the 1990s.[186]

3.3 - How to bridge the different "fractures"?

It takes more than the repeal of a few laws, to bridge the "fractures" of the apartheid city. First of all, the urban areas suffered from an obvious physical divide.

The graphic images of the apartheid city are world-famous. On the one hand, opulent white suburbs with commercial services and municipal service standards are on par with first-world

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[182] Seekings J., 'Civic organisations in South African townships', p.234

[183] Boraine A., 'Strategies of the Democratic Movement' in Fourie S., (ed.) Strategies for Change, Proceedings of the national conference on Strategies for Change organised and presented by the Institute for a Democratic Alternative for South Africa, held in Johannesburg on 25-26 November 1988, IDASA, Cape Town, 1989, p.32.

[184] Shubane K., 'Change at local level' in Fourie S., (ed.) Strategies for Change, p.52.

[185] Shubane notes that "in the late 1980s ... the forum movement seemed to be a living example of the belief that [our society] was a society steeped in a rich tradition of civil society culture And it seemed to confirm the view that this would remain a society in which power was diversified, and in which power did not reside only in one set of institutions." See Shubane K., 'Whither civil society formations?', Humphries R., Reitzes M. (eds.), Civil Society after Apartheid, Proceedings of a conference convened by the Centre for Policy Studies on the role and status of civil society in post-apartheid South Africa, held in Johannesburg on 19 and 20 September 1995, Johannesburg, CPS, 1995, p.68.

[186] See chapter 8 of this study.

societies. On the other hand, the sprawling black townships outside the towns are characterised by uniform housing units, poor services and bands of informal housing.[187] The challenge of the post-apartheid urban areas is to eliminate the spatial fragmentation, not only in order to create continuous boundaries but most of all to bring the different racial groups together and give them the same opportunities in terms of access to employment, services and facilities.

Saff makes a useful distinction between the processes of deracialisation of space and desegregation. "The challenge is to translate the deracialisation of space into the democratisation of local government and the desegregation of the resources and facilities." [188] The new local authorities have to understand and "patch together" urban entities conceived and built around notions of race and segregation rather than function and economics. As Bernstein points out:

> *... building the 'black' and 'white' components of the cities together will be a difficult task. There will be infrastructural, economic, political, transport and social components of this challenge.*[189]

The second fracture concerns the institutional divide. The problem the new local authorities will have to face is first of all technical It is about the harmonisation of systems such as computer, billing and financial management. In many cases this will lead to the extension of the systems prevailing in the white local authorities to former BLAs.[190] As we have seen, thanks to subsidies the costs of basic services in homeland residential areas (R293 townships) was lower than the equivalent in provincial areas. When these areas are amalgamated, a tariff harmonisation will be needed. Besides, the amalgamation of the different administrations would require for the staff, a parity in pay and service conditions, in conjunction with a complete redefinition of personnel requirements and job description.[191] This will be likely to take some time considering the extent of the fragmentation, the complexity and the inefficiency of the apartheid local government. For example, studies in Natal showed that at least 11 levels of government authority overlapped with each other in the planning of the Durban Functional Region.[192] In what is now the North, Outer and Inner West local councils of Durban, planning was done by the local councils, the Development and Services Boards,[193] the Natal Provincial Administration (NPA) and the KwaZulu government.[194]

But if the technicalities have to be harmonised, attitudes to the new dispensation will have to change as well. Bernstein states that:

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[187] Swilling M., 'A review of local government and development in the Southern African region', in Reddy P. S. (ed.), Readings in Local Government Management and Development. A Southern African Perspective, Cape Town, Juta & Co. Ltd, 1996, pp.16-48.
[188] Saff G., 'The changing face of the South African City: >From Urban Apartheid to the deracialisation of the space', International Journal of Urban and Regional Research, Vol. 13 (3), 1994, p.378.
[189] Business Day, 21.10.1995.
[190] Inter-ministerial committee on the State of Local Government Finance, Discussion Document, p.27.
[191] Swilling M., 'A review of local government and development in the Southern African region', p.22.
[192] McCarthy J., 'The divided city. Group areas and racial segregation, in Opening the Cities, p.12.
[193] Cf. chapter 1, note 5.
[194] Martens A., Williamson A., Urban Form, JSC Rapid Action Programme, Durban Metro, October 1996, p.13.

> *.. the second problem is an attitudinal dynamic in black and white communities. For many blacks, the poor quality of their services has resulted in a deep culture of non-payment. Whites could believe they were living in fairly small, well-ordered colonial towns and cities because of segregation. Many whites have now to cope with a different reality where cities are much bigger, noisy, dangerous.*[195]

Bernstein speaks here of the racial groups inhabiting the urban areas, but an equally big challenge was facing the officials. Those who served the former white local authorities, had suddenly to deal with twice or three times the area they used to deal with, characterised by totally new needs and dynamics.

If one believes the White Paper on the Transformation of the Public Services, most of the public officials of the apartheid era were "more concerned with the application of rules and procedures than with the development of a culture and ethos of service."[196] The document goes on to state that because the public service was strongly oriented towards control of the majority population:

> *... it became of necessity highly authoritarian, centralised and rule-bound in its operation. It was characterised in particular by the development of a vertical, top-down management structure.*[197]

The accountability was limited to a bureaucratic accountability (adherence to rules and procedures rather than efficiency and productivity) and the lack of professional ethos and work ethic "manifested in inefficiency, mismanagement and corruption".

CONCLUSION

The multiplicity of local government bodies outlined in this chapter, makes it clear that the first characteristic of the apartheid system of local government was its compartmentalised nature. Each of the racial groups had its own form of local government. The Pretoria government tried to prevent any interaction between these compartmentalised bodies, any communication and any transfer be it financial or technical. It was only in the mid-1980's that the RSCs established institutional relationships between segregated local authorities. This was however another attempt to save the ideal of separate development, by allowing some transfer of funds and looking for political acceptance. It was in KwaZulu-Natal where the co-operation went the furthest, with the Joint Services Boards.

The second characteristic of the apartheid local government is its subordination to the central state. Because it was vital that it controlled the aspects of the lives of all racial groups in order to

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[195] Business Day, 21.10.1995.
[196] Ministry for the Public Service and Administration, White Paper on the Transformation of the Public Service, Pretoria, Government Gazette, Vol. 365, No. 16 838, 24 November 1995, p.17
[197] Ibid.

segregated them, the NP government denied even basic initiatives to local authorities. If it wanted to preserve apartheid, it could not afford to deal with hundreds of bodies which would be able to decide how to manage "their" territories best.

Before 1948, it was town councils which experimented with segregation to the point of inspiring the NP government when it came to power. After 1948, local authorities became simple agents of the state. Thus, the institution was an important part of the apartheid system and anyone who accepted to be a councillor (like Inkatha members) was viewed as a traitor.

Local authorities' history explains their bad image. In the 90's, while more and more countries in the world were betting on decentralisation to promote local democracy and development, South Africans still associated local authorities with a tool in the hand of the central government to enforce segregation. They were illegitimate bodies in black, coloured and Indian areas, associated with 'corruption' and 'inefficiency'. They were legitimate bodies in white areas but ruled by technical priorities and not political objectives.

To transform these bodies into representative and legitimate political bodies, which are able to define a vision of their areas in order to overcome the spatial divide, the discrepancies in service delivery and "walls in the heads" is a daunting task. In the legal and institutional framework defined by the new government, the success will depend on the attitudes and reactions towards local government of all the local stakeholders (inhabitants, officials, councillors).

Chapter 2
The transitional model of local government

During the late 1980s, resistance to rent and service charges in the black townships[1] broadened into wider anti-apartheid unrest. The pressure of this resistance - mainly in the form of boycotts - forced several white municipalities to propose taking over the administration of their surrounding 'black areas' in conjunction with local civics.[2] However, these local initiatives did not last long. The central state was not yet ready to accept local level negotiations and made sure they did not bear fruit.[3]

However, the National Party government could no longer close its eyes to the 'black' presence in 'white areas'. It introduced the Free Settlement Areas Act in 1988 which gave for the first time permission to blacks to live in towns and cities. The Act created limited open spaces where people could live, regardless of race.

With the stepping down of P. W. Botha as State President on 14 August 1989 and the famous 2 February 1990 speech[4] by De Klerk, the attitude of the government to changes evolved drastically. Not only was it ready to repeal fundamental apartheid laws, it was also ready to tackle the central issue of power distribution. Important measures were taken at national level with the release of political prisoners, the end of the state of emergency and the unbanning of political organisations. But it was at the local level that the first attempts to negotiate and erase apartheid's boundaries took place. Because an important part of the struggle was directed against local institutions and focused on local issues, the local level had become a place where solutions urgently had to be found. The deputy Minister of Constitutional Development Tertius Delport stated[5] in 1991 that the struggle for the future South Africa would be won or lost at the local level.

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[1] The Minister for Planning, Provincial Affairs and Housing Hernus Kriel, stated in 1991 that 48% of the BLAs had collapsed countrywide and 404 councillors had resigned since February 1990 (quoted in Mashabela H., 'Politics at local level', Spotlight No. 1, Johannesburg, SAIRR, May 1994, p.21).

[2] Swilling M., Beyond Ungovernability: Township Politics at Local Level Negotiations, Johannesburg, Centre for Policy Studies, University of the Witwatersrand, 1988, p.32.

[3] Seekings J., 'Civic organisations in South African townships', in Moss G., Obery I. (eds.), South African Review 6. From 'Red Friday' to CODESA, Johannesburg, Ravan Press, 1992, p.221.

[4] In his opening address to Parliament on 2 February 1990, President De Klerk announced the unbanning of the ANC, PAC and SACP and the release of large numbers of political prisoners who had not been found guilty of common law offences.

[5] Botha T., 'Local government institutional arrangements: a historical perspective with specific reference to the major cities in South Africa', Reddy P. S. (ed.), Perspectives on Local Government Management and Development in Africa, Durban, University of Durban Westville, Department of Public Administration, January 1995, p.13.

1 - The negotiations at national level

Pragmatism at national and at local level was the order of the day in the beginning of the 1990s. After the historical speech of De Klerk and the liberation of Nelson Mandela from jail, negotiation became the way of defining the future of South Africa. At local level, discussions were being held between BLAs, community groups and provinces over the writing off arrears, the possibility of handing over housing stock for private ownership, affordable service charges, upgrading of services and a single tax base. In a number of towns, WLAs were beginning again (after 20 years) to manage most the functions in their neighbouring townships (for example Ladysmith and Pinetown in Natal).[6]

The "old system" of local government was officially sentenced to death in May 1990 by the State President and the Minister of Planning and Provincial Affairs. They announced that local government in South Africa had to move away from a system based on colour, towards power sharing without domination. De Klerk also argued for the maximum devolution of power to the local level, as a guarantee against government authoritarianism.[7] The government was nonetheless determined to ensure its control over the pace and the nature of the change. This was translated into the first piece of legislation which tackled the problem of the transformation of local government.

1.1 - The Interim Measures for Local Government Act

Swilling notes that by the early 1990s, hundreds of local level negotiations had broken out across the country. Local forums became:

> *... the schools of the new South African democracy. This is where networks and relationships were built, mutual learning took place and a new culture of governance and consensus-building developed.*[8]

The Thornill Report[9] which formed the basis of government policy on local government, recognised the importance of local negotiating processes It advocated that 'local indabas' be

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[6] Heymans C., White R., 'Playing politics without the power: the state of black local government in the South Africa of the 1980/90s' in Politikon, Vol. 18 (1), January 1991, p.13. See also on the transfer of administration and management of Pinetown South to the Borough of Pinetown, Bekker S., Singh P. A., 'Reshaping the DFR metropolis', Indicator SA, Vol. 8 (3), Winter 1991, p.24 and Clark C., 'A civic accord: service delivery in Greater Pinetown', Indicator SA, Vol. 9 (1), Summer 1991, pp.62-64.

[7] The Citizen, 08.05.1990, quoted in Atkinson D., 'Local government', South African Human Rights and Labour Law Yearbook, Vol 2, 1991, Cape Town, Oxford University Press, 1992, p.153. See also Bekker, Singh, 'Reshaping the DFR metropolis', Indicator SA, pp.23-26.

[8] Swilling M., 'A review of local government and development in the Southern African region', in Reddy P. S. (ed.), Readings in Local Government Management and Development. A Southern African Perspective, Cape Town, Juta & Co Ltd, 1996, p.20.

[9] Report and Recommendations of the Investigating Committee into a System of Local Government for South Africa, commissioned by the Council for the co-ordinating of local government affairs, (chaired by C. Thornill), May 1990.

held in each city to negotiate a new system.[10] The report argues that local government is a fully-fledged level of government and therefore negotiations for the establishment of a new constitutional dispensation must take place at this level.[11] But the Interim Measures for Local Government Act,[12] instead of accepting diverse processes, was an attempt to control them by imposing a uniform framework on what had hitherto been spontaneous local negotiations.[13] This Act reflected the government's determination to formalise and control the negotiations as much as possible.

Reid and Cobbett[14] give a critical account of the legislation. First, they accuse the state of "protecting the sloth and illegitimacy of BLAs by weighing the odds in their favour."[15] The legislation gave a central role in the local negotiations to the BLAs, making it compulsory that they be part of the process. On the other hand, it did not recognise the civics as local government bodies. This was significant because only bodies with this status could take part in the negotiations. Civics could however be nominated and included in the process, but BLAs had total discretion on which civics to include and which individuals to co-opt. Secondly, the two authors criticise the state for wanting to control all aspects of the local negotiations. Provincial administrators enjoyed extensive legislative powers to recognise and give legal effect to local agreements.[16] When two or more local authorities had entered into negotiations, the administrator could at their request establish a single local authority and, if necessary, dissolve the former ones. He was also able to determine the powers and functions of the new administrative entity. Finally, Reid and Cobbett accuse the legislation of anticipating the national negotiation process and of trying to remove local apartheid by a process of local negotiations.[17] It allowed piecemeal establishment of new forms of local government, although their structure, role and functioning were issues that had to be dealt at national level.

Those critics were echoed by the ANC which rejected the Act on the grounds that it would not result in the creation of "a non-racial, democratic, non-sexist, open and united local government in South Africa."[18] Reddy notes that:

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[10] Atkinson, 'Local government' in South African Human Rights, p.153.

[11] See Botha T., 'Local government institutional arrangements', in Reddy, Perspectives on Local Government, p.13.

[12] Interim Measures for Local Government Act 129 of 1991.

[13] For a description of the different civic associations' positions concerning local negotiations in 1990-91 in Transvaal see Indicator Project South Africa, 'Last stop for the metro', Interview with Civic Association of the Southern Transvaal (CAST) President Moses Mayekiso, Indicator SA, Vol. 8 (3), Winter 1991, pp.21-22.

[14] Reid G., Cobbett W., 'Local level negotiations and the Interim Measures for Local Government Act', in Moss, Obery, South African Review 6, pp.239-253.

[15] Ibid., p.240.

[16] Ibid., p.248.

[17] Ibid., p.241.

[18] Reddy P. S., 'Local government restructuring in South Africa', in Reddy, Readings in Local Government, p.56. On the ANC's rejection see McCarthy J., 'Regional tier reform', Indicator SA, Vol. 9 (3), Winter 1992, pp.11-12.

The ANC argued that the government was attempting to manipulate local government initiatives, unilaterally introducing this legislation which put too many powers in the hands of the then administrators.[19]

The DP agreed with the ANC, its position being that the Act was flawed since it required the amalgamation of existing racial bodies rather than negotiations between residents.[20] Predictably, the NP did not have anything against the Act and the Conservative Party (in July 1992) started to urge the CP-dominated councils to enter into negotiations with neighbouring black townships because of "the change of circumstances in local government and the government's deadline of January 1993 for joint administration at local level."[21]

Despite the opposition the Act encountered at a national level, several local initiatives took place which demonstrated the will of the local stakeholders to take this opportunity of breaking the boundaries created by apartheid. By November 1992, 69 local negotiating forums were operating country-wide under the Interim Measures for Local Government Act. Thirty-three of them enjoyed complete joint administration.[22] In Natal, several white towns decided to evolve towards increased co-operation with their surrounding racially based "counterparts". It has to be underlined here that since 1990, local authorities and the Natal Provincial Administration (NPA) were taking initiatives to prepare the way to unified cities and towns. Bekker and Singh[23] quote different examples such as:

- The announcement in mid-1990 by Peter Miller, then member of the executive committee (MEC) for local government in the NPA, that service delivery provided by certain white local authorities would be extended to include neighbouring black areas;
- The 'Pietermaritzburg 2 000' initiative at the end of the 1980s, aiming at giving a reality to the 'one-city' slogan;[24]
- The investigation by V. A. Volker, MEC for local government in 1991, into the possible merger of Sobantu Village into Pietermaritzburg.

Glencoe (Northern Natal) was the first town to have a multiracial council "with the integration of Indian councillors in 1991."[25] In Harding (in the South Coast), a local negotiating forum was established in June 1992 in terms of the Interim Measures on Local Government Act. Harding Town Board (white local authority), Harding Civic Association (predominantly Indian), Harding Ratepayers' Association, and the local affairs committee (coloured) joined to form a new town board of nine members which was proclaimed on 5

[19] Reddy, 'Local government restructuring in South Africa', p.57. See also South Africa Institute of Race Relations, Race Relations Survey, 1991/2, pp.83-84 and Race Relations Survey, 1992/3, p.510.
[20] Ibid. 1992/3, p.511.
[21] Paul Fouche, secretary of the General Municipal Committee of the CP, quoted in Race Relations Survey, 1992/3, p.511.
[22] South African Institute of Race Relations, Race Relations Survey, 1993/94, p.568.
[23] Bekker, Singh, 'Reshaping the DFR metropolis', Indicator SA, p.24 and 25.
[24] See Bhamjee Y., Hickson M., An Appraisal of Pietermaritzburg 2 000's Options for 'Restructuring Local Government', Development Studies Research Group, Working Paper No. 15, University of Natal, Department of Economics, Pietermaritzburg, January 1988.
[25] Interview with Mr Retief, Glencoe town clerk, 28.10.1996.

October 1992.[26] In Mooi River (Midlands), on 14 May 1992, the local affairs committee dissolved and its councillors became full members of the town council. However, the neighbouring black township of Bruntville was not included because of the unrest going on at the time.[27] Lowsburg and the neighbouring African township of Mzamo (Northern KwaZulu-Natal) amalgamated in January 1993 and formed a single council of three black and three white councillors.[28]

In Durban in mid-1991, a Civic Forum was formed[29] to carry forward the campaign for a democratic city. Seventy associations, ranging from education, sports, cultural organisations to political parties (ANC, SACP, Natal Indian Congress) were included in this forum but the path of change was slow. In September 1993, the Durban City Council committed itself to set up a non-racial interim council by early October 1993. An agreement was signed between the then chairman of the management committee Peter Mansfield, and representatives of the ANC, IFP and NP with the CP being the only opponent. But in October 1993, the interim council had not yet been set up and Durban town clerk Eddy Morton blamed it on a deadlock between the ANC and the IFP.[30]

1.2 - The National Local Government Negotiating Forum

Despite these numerous local initiatives, the pace of change was slow and in 1992-3, the need for a national framework guiding the local government transition was urgently felt. In order to draft the legislation which would define the process up to the first local elections and beyond, a National Local Government Negotiating Forum (NLGNF) was set up on 22 March 1993. It ran parallel to the national constitutional negotiations in the hope that local and national transition would not be separated.

With the creation of this national body, the negotiation process which had begun as local bargainings in order to solve local issues, rapidly became a national one, between national politicians, on national issues. But this part of the national negotiation process was a minor theme compared to the high drama of national negotiations.[31] Nevertheless, or perhaps thanks

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[26] South African Institute of Race Relations, Race Relations Survey, 1992/3, p.516.
[27] Ibid. p.518. See on the Bruntville reports of violence Jeffery A., The Natal Story, 16 Years of Conflict, Johannesburg, South African Institute of Race Relations, 1997, pp.686-691. See also Minnaar A. de V., 'Mayhem in the Midlands: battle for Bruntville', Indicator SA, Vol. 9 (3), Winter 1992, pp.60-64.
[28] South African Institute of Race Relations, Race Relations Survey, 1993/94, p.571.
[29] Paul Fouche, in Race Relations Survey, 1992/3, p.515.
[30] See South African Institute of Race Relations, Race Relations Survey, 1993/94, p.570. Khan explains differently the lack of progress in the negotiation. According to him it was the NP faction which insisted that the defunct coloured and Indian LACs be granted 25% of the seats on the interim council. This was rejected by the IFP and the ANC and the negotiations deadlocked. (Khan F., Metropolitan Case Study as Input to Local Government Green Paper. The Case of Durban, Durban, unpublished, 1997, p.5).
[31] Johnston argues that "it was naive to think that anyone would have enough time, energy and finance to give to the third tier of government, when the eyes of the world were focused on the major changes taking place at first and second tier levels." (Johnston A., 'Durban-Style democracy', Indicator SA, Vol. 12 (1), Summer 1994, p.57).

to this lack of attention, the NLGNF came up in a relative short time with a piece of legislation which was accepted (with few exceptions) across the political spectrum, because it involved the majority of the stakeholders.

1.2.1 - The composition of the NLGNF

When the NLGNF began its work (April 1993), it functioned on a two-sided model in which a 'statutory' or official side confronted a 'non-statutory' side. The difference between the two lies in the participation factor.

The statutory membership (half of the delegates) covered the institutions which played a role in the apartheid system of local government. These were:[32]

- Central government and its departments (Department of Finance);
- The council for co-ordination of local government;[33]
- The four provincial administrations;
- Organised local government (Major Cities Association,[34] Municipal Executive of South Africa, National Committee of Local Government Association, Transvaal Municipal Association, Transvaal Local Government Association, South African Association of Municipal Employees, United Municipalities of South Africa, Urban Councils Association of South Africa);[35]

The 'non-statutory' delegation was made of "people who represent their communities but had no official role in the old local authorities": [36]

- Political parties (ANC, Natal Indian Congress);
- SANCO;
- Women's groups, South African Municipal Workers' Union.

Equal representation was justified not only in order to legitimate the results of the negotiations but also because of "the need to include administrative and managerial expertise in the forum."[37]

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[32] South African Institute of Race Relations, Race Relations Survey, 1993/94, p.39.

[33] The council was instituted by the Promotion of Local Government Affairs Act 91 of 1983. It was composed of representatives from government, black, 'coloured', Indian and white local governments, and professional municipal institutes See Craythorne D. L., Municipal Administration, A Handbook, third edition, Kenwyn, Juta & Co Ltd, 1993, p.487.

[34] On the position of the Major Cities Association concerning the negotiation process, see Friedman S., 'Within city limits', Indicator SA, Vol. 10 (3), Winter 1993, p.59.

[35] The Urban Council Association of South Africa and United Municipalities of South Africa were competing to represent the black local authorities. See Shubane K., 'Black local authorities: polls revisited', Indicator SA, Vol. 6 (1/2), Summer/Autumn 1989, p.12. See also Atkinson D., The Search for Legitimacy in Black Urban Areas: the Role of the Urban Councils Association of South Africa, Development Studies Working Paper No. 20, ISER, Rhodes University, January 1984.

[36] Kay B., Ramsey M. (eds.), Guide to Local Government Elections, KwaZulu-Natal, Durban, Y Press, 1995, p.19.

[37] Bekker S., Buthelezi S., Manona C., Mlambo B., Van Zyl A., 'Local government transition in five Eastern seaboard South African towns', in Politikon Vol. 24 (1), June-July 1997, p.41.

Absent from these negotiations were the PAC, AZAPO, DP, CP, PAC, IFP, AVF (Afrikaner Volksfront).[38] Some of those parties or groupings (CP, IFP) had walked out of the national negotiation process in July 1993 because of the adoption of 27 April 1994 as the date for the elections.[39] In this context, local government became another front in the conflict over national negotiations. During 1993, the CP attacked the NLGNF directly, stating that it did not have any legitimacy.[40] The DP rejected the composition of the forum because it considered that the NP and ANC dominated the debates.[41] Neither the TBVC states[42] nor the self-governing territories were included in the negotiations because the legislation did not concern them until the time of their re-incorporation. Cloete[43] considers that the absence of these organisations was an important stumbling block, complicating the adoption of the Local Government Transitional Act until the very end, when the DP still refused to accept some aspects of the agreements. But the main forces (the ANC and the NP) were leading the process and succeeded together in drawing up a model for the transition.

1.2.2 - The model of transition

At the national level, the general model of the transition period involved three stages:

- The pre-interim phase, in which negotiations would be held through multi-party talks in the Convention for a Democratic South Africa (CODESA). An appointed body, the Transitional Executive Council (TEC) would begin to take over the reins of power from national, provincial and bantustan governments;
- The interim phase, beginning with the elections of national and provincial legislatures;
- A 'post-transitional' phase which would start after the adoption of the new constitution.

Applying this pattern to the local government transitional process in urban areas, the NLGNF produced a model with:

- A pre-interim phase for local government during which negotiations at national and local level (through local forums) would be held. The one-city discourse[44] would be

[38] The AVF was created in May 1993 by 21 white right-wing parties and organisations including the CP and the AWB. See South African Institute of Race Relations, Race Relations Survey, 1993/94, p.31.
[39] Ibid., p.30.
[40] Ibid., p.565.
[41] Ibid.
[42] Transkei, Bophuthatswana, Venda, Ciskei.
[43] Cloete F., 'Local government restructuring', in Politikon, Vol. 21 (1), June 1994, p.62.
[44] Urban planners in the 1990s shared an emerging consensus over the need to restructure the apartheid city. The means were the compacting of the city, its densification, the development of activity corridors with the objective of integrating what had been physically divided. Cf. Mabin A., 'Negotiating the shape of metropolitan government for post-apartheid cities in South Africa', Villes et Developpement: Groupe inter-universitaire, Montreal, Cahier 1-96, 1996.

applied and transitional local councils appointed on a 50:50 statutory/non statutory basis;

- An interim phase would follow, beginning after the first local government elections, to be held under a very specific electoral system. The council in the interim phase[45] would be made up of ward councillors (60% of the councillors) and candidates elected on a party list (40%). In TLCs, citizens would first vote on a white ballot paper for an individual to represent them in their ward. The candidate could either be a member of a political party, interest group or an independent. The second vote would be cast on a yellow ballot paper to elect political party or interest group to represent them on the local council. This would ensure elements of representivity in the proportional matching of some council seats with votes cast, and accountability, in the presumed responsiveness of individual councillors to a particular ward.
- A "final phase" governed by a new constitution and new legislation on local government.

The NLGNF's achievement is to have prepared the legislation establishing not only a framework for local negotiation, but also the type of local authorities which would function in urban areas during the interim phase. This legislation, passed in December 1993 and promulgated in February 1994, was called the Local Government Transition Act (LGTA).

1.2.3 - The LGTA[46]

The LGTA is one of the three texts[47] which were to govern the pre-interim phase of local government in South Africa, that is until the adoption of the final constitution and the holding of new local elections.

Apart from making provision for democratic municipal elections to take place in November 1995, the LGTA provided a much needed framework in which each urban local authority was able to define its future. Bekker[48] states the need for a national framework in order to manage the local negotiation process:

> *The local level forum discussions were voluntary and, in the absence of clear guidelines from central government... institutional confusion prevailed in cities and towns.*

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[45] Section 245 in the interim constitution.

[46] Local Government Transition Act 209 of 1993, which came into effect on 2 February 1994.

[47] The two other texts are the:

- 'Agreement on Finance, Services and Service Rendering' signed by Mr Mandela and Mr De Klerk (20 January 1994) which states that the outstanding debts of the BLAs that could not be paid (approximately R360 million) should be taken by the state;
- Interim Constitution Act, Act 200 of 1993.

[48] Bekker et al, 'Local government transition in five Eastern seaboard South African towns', p.41.

The actual shape of local government in most of the hundreds of urban areas remained undecided until the LGTA process forced decisions on the matter. But the Act provided no more than a legal framework for local government transition, thus giving the opportunity to test the ideals of devolution and wide-ranging autonomy at local level. Local negotiating forums were the bodies which were to bring together "local stakeholders" They would together imagine a future for their local authority. But if the legislation gave extensive powers to the local forums, local government in the interim constitution, remained a provincial matter and accordingly, the provinces were empowered to monitor and supervise the negotiation process and its time-table. They were helped by two bodies created by the LGTA: the Demarcation Boards and a Provincial Committee on Local Government.

Demarcation Boards had to make recommendations on the areas of jurisdiction of new local authorities to the provincial executive. The nine provincial bodies were appointed prior to the 1994 election. Each of the boards was made up of as many members as determined by the Administrator. A Demarcation Board[49] was established in KwaZulu-Natal on 19 August 1994 (after lengthy negotiations which began in April 1994) and given the responsibility of ensuring that the boundaries negotiated by the local forums and approved by the MEC of Local Government and Housing, complied with Schedule 6 of the Local Government Transition Act.[50]

The Act also stipulated the creation of a Provincial Committee on Local Government (PCLG). Decisions by the local forums about local government boundaries, the number of seats or the composition of the statutory/non-statutory sides, had to be ratified by the provinces (MEC for Local Government and Housing) in concurrence with the PCLG. Disputes between a committee and the MEC would be settled by the Electoral Court. One Committee was established in each province by political appointment prior to the 1994 elections, and was also intended to represent the two sides of local government negotiation - the official and the non-official. The Provincial Committees comprised not more than six members "representative of stakeholders in local government in the province."[51] They had to monitor and control the new local government system in concurrence with the Administrator (MEC) until the first local elections.

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[49] The members of the KwaZulu-Natal Demarcation Board were Messrs P. Mansfield and T. S. Gcabashe as co-chairmen, Mrs N. Armstrong, Mr B. B. Biyela, Mr P. Cornell, Mr R. Hillerman, Mr A. Horton, Mr M. M. Khosa, iNkosi K. W. Mathaba, Dr A. C. McIntosh, Mr Y. Moolla, Mr T. Ndlovu, Mr U. Pillay, Mr D. Poynton, Mr G. Shardelow, Mr M. Sikhosana, Ms J. Subban. They were chosen according to criteria listed in Schedule 5 of the LGTA. The members of the board had to have *inter alia* extensive knowledge of planning, economics, municipal finance, municipal service and administration. Moreover, according to the LGTA, the composition had to be "balanced, representative, non-racial and gender inclusive."

[50] The following criteria (schedule 6 of the LGTA, 1993) were used for the demarcation of boundaries: topographical and physical characteristics; population distribution; existing administrative boundaries; potential land use; development potential; economic functionality; financial viability; degree of common interest among residents.

[51] LGTA, Part II, Section (3)(1)(a).

The creation of the PCLG meant that negotiation about the shape of local government was allowed to continue outside the new provincial governments elected in 1994. For example, the Gauteng (originally PWV) Provincial Committee had three ANC members, two National Party members and one representative of the DP. Though the ANC always looked certain to gain a solid majority in Gauteng, it appeared that it could not simply have its own way in local government decisions.[52] In KwaZulu-Natal, the Provincial Committee for Local Government held its inaugural meeting on 4 March 1994 and comprised three members from the statutory side (NP, IFP,[53] independent) and three from the non-statutory (ANC, SANCO, Natal Indian Congress).[54]

The Interim Measures for Local Government Act had already provided in 1991 for the establishment of "forums" but the results were poor because of the opposition of some important forces (especially as noted above, the ANC). On the contrary, the LGTA, because it was the product of inclusive talks, had a strong impact on local negotiations. It was this piece of legislation which stipulated that forums had to be established in each city or town during the pre-interim phase.[55]

2 - The pre-interim phase

2.1 - Creation of local negotiating forums

In order to gain recognition by provincial Administrators acting on behalf of the national ministry engaged in the NLGNF, existing forums had to adopt a 50:50 statutory and non-statutory model on the same pattern as the NLGNF. The idea of the LGTA was to devolve the responsibility for devising the new local structures to "local stakeholders" who had belonged to and been excluded from the arena of local government in the past. Principles of inclusivity and representation were placed at the centre of the transition process, in the same way that they had been in the NLGNF.

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[52] Mabin. A, 'Negotiating the shape of metropolitan government', p.18.

[53] The IFP belonged to the statutory side because the party supported the creation of BLAs in the province and took part in the elections of black local authorities' councillors. The IFP was thus considered as "having taken part in the former system of local government".

[54] The composition of the PCLG in KwaZulu-Natal was the following: G. Haygarth for the NP, P. Miller for the IFP (later replaced by D. Watterson), P. Mansfield as Independent (later replaced by A. Ferguson), R. Haswell for the ANC (later replaced by M. Sutcliffe), J. Sithole for SANCO and V. Suparsad for the Natal Indian Congress.

[55] See Cloete F., 'Local Government Restructuring', in Politikon, p.51.

In non-metropolitan areas, the local authorities

- from grade nine up could set up transitional local councils or local government co-ordinating committees (LGCC).
- with grade 8 or below could establish a LGCC (cf. definitions below).

The former local authority gradation system is used here. A grade 9 town corresponded in size to an urban area like Ladysmith (white part of the town).

With the LGTA, local forums had to admit:

- Political parties, the main vehicles of negotiation nationally (but not necessarily locally) until 1994;
- Suburban (white) residents organisations, as non-statutory members, despite their members' participation in the WLAs.

In some cases, these requirements made less difference than in others. For example, in Port Elizabeth, political parties had been the key participants in negotiation from the start, rather than civics and the WLA. But in others, including Johannesburg, the entry of political parties and residents' associations altered the nature of the process by bringing discord to the compact city vision.[56]

Van Zyl Slabbert notes[57] that the main difference between the negotiation process at national and local level is that "far greater responsibility for finalising the transition at local level rests on the people who have to negotiate." At national level, teams of experts had played a crucial role in supporting negotiations by drafting proposals. This did not happen at local level and the local forums had to decide on a number of crucial issues by themselves, during the two steps which were supposed to lead them to the establishment of a transitional local government body.

2.1.1 - First step

During the first step, local interest groups in all 'economically and historically bounded' urban areas in the country had to establish their own local government negotiating forums. This meant that in order to draw the boundaries of the forum, factors such as commercial and industrial linkages, daily commuting patterns, provision of services, current jurisdictions of local authorities (including pre-1971 jurisdiction) were to be taken into account.[58] The interest groups were invited to meet one another in a series of workshops convened by the town clerk of the existing local authority. These groups had to decide on the composition of the statutory and non-statutory side as well as to propose geographical boundaries for the forum. The process of consultation and forum involvement was not without its problems in KwaZulu-Natal,[59] as illustrated by the following extract from a presentation by the provincial Demarcation Board:

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[56] For a story of the negotiation process in the Central Witwatersrand Metropolitan Chamber (the negotiating forum for the Johannesburg area) see Mabin. A, 'Negotiating the shape of metropolitan government for post-apartheid cities in South Africa'. See also Padayachee N., 'Organisational transformation in local government: the experience of Greater Johannesburg', Paper delivered on 16 August 1996, INLOGOV Seminar Series 3/96.

[57] Van Zyl Slabbert F., 'Local crisis', in Democracy in Action, Vol. 8 (6), Johannesburg, IDASA, 15.10.94, p.5.

[58] Cloete F., Local Government Transformation in South Africa, Pretoria, J. L. van Schaik, 1995, p.9.

[59] This process is rather well documented for the Durban area because of the general research bias towards the metropolitan areas. As a result, there is a lack of information on local government transition in small towns. This discussion outlines the controversial issues on which the local forums had to take

This process was a rude awakening for many local authorities as it was the first time many had actually worked with civic representatives or even the other racially defined councils within the area. Many forums could not finalise their deliberations on time and the minister was forced to rely on Arbitration Committees to reach decisions.[60]

The obstacles to a rapid agreement did not come only from a lack of negotiating capacity. In KwaZulu-Natal, the participation of Inkatha members in the BLA system and the R293 township councils, in theory made IFP members statutory components of the local negotiations. The fact that the UDF/ANC belonged to the non-statutory side made the negotiation process very polarised and tense. Facing a coalition of IFP and NP members, the civics, an important member of the non-statutory side, were more fragmented and weaker than in the rest of the country. Civics had been created in the country as a response to three threats:[61]

- The post-1976 repression;
- The introduction of BLAs (1982);
- The defiance campaign and the liberalisation measures (1990).[62]

But the situation is complicated in KwaZulu-Natal by the 'KwaZulu threat' (Inkatha's opposition to the Charterist organisation, to the boycotts, to the strike and the IFP's dream of territorial consolidation). Clark et al[63] explain the specificity of civics in the Durban:

In the Durban Functional Region... most black areas were located in KwaZulu, where opposition from the authorities prevented the open mobilisation of Charterist civil society organisations. Only in areas which lay outside KwaZulu, were civic organisations able to mobilise. Charterist grassroots organisations began emerging in urban KwaZulu-Natal in the mid 1980s, probably in response to the mobilisation of the United Democratic Front.

As a consequence, in Durban, the economic heart of KwaZulu-Natal,

... where the civic movement was considerably more fragmented and weaker than in, say, Johannesburg, the steps leading to negotiation on

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decisions. The study of the transition period in five eastern seaboard South African towns (Bekker et al, 'Local government transition', pp.38-56), gives helpful guidance on these issues.

[59] Schedule 1 of the LGTA.

[60] Demarcation Board Presentation, dated 28 July 1995, and quoted in Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections held on 26 June 1996, Pietermaritzburg, 1996, p.21.

[61] Shubane K., 'The future of civics', Indicator SA, Vol. 11 (2), Autumn 1994, p.40.

[62] After the 2 February 1990 speech, civics renewed the campaign for the resignation of black councillors. See Botha T., 'Civic associations as autonomous organs of grassroots' participation', in Theoria, No. 79, May 1992, p.58.

[63] Clark C., Bekker S., Cross C., 'Civic capacity building', Indicator SA, Vol. 11 (4), Spring 1994, p.83.

> *the future of local government were to some extent initiated by business interests*[64]. *...in Durban, the political presence of Inkatha and the fact that parts of the metropolitan area lay within the KwaZulu bantustan, meant that the style of negotiation departed greatly from elsewhere. The role of mediation was vital in order to produce a forum in which both Inkatha and the ANC would participate.*[65]

One of the first contentious issues the forums had to deal with was the determination of the composition of the statutory or non-statutory caucuses. This was of primary importance since it would be they who would appoint the transitional council which in turn would run the town until the first elections. The definition of statutory and non-statutory was vague and led to some disputes. The LGTA defines the 'statutory' components as:

> *... members of the existing local government bodies and the persons representing bodies or organisations approved by the forum as being part of such component"* and non-statutory as *"persons representing any other bodies or organisations not contemplated in item (a) having vested interest in the political restructuring of local government and approved by the forum as being part of such a component.*[66]

There was much disagreement, over who to consider as being part of the two caucuses. In KwaZulu-Natal, the ANC, IFP and PAC were recognised as non-statutory components. This was not an easy agreement to reach because the ANC was adamant that the IFP, because of its participation in the KwaZulu government and to the BLAs, should be accommodated on the statutory side. But the ANC realised that "there was no way the IFP could accept that and a compromise was reached between the two parties."[67] Khan[68] reports on the IFP's success in being part of the non-statutory side in Durban:

> *The ANC and the civics rejected this very strongly, maintaining that many of the IFP members served on discredited town councils... After many bilateral discussions it was agreed that the IFP would be part of the non-statutory delegation.*

In other cases, white parties contested their belonging to the statutory group. In Howick, one of the arguments was about whether the DP, NP and FF should be considered statutory or not, given that no parties contested in the previous elections on a party political basis.[69]

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[64] The initiative for the negotiation process was taken in Durban by its Mayor Jan Venter. See Mansfield P., 'Talks about talks: third tier negotiations', Indicator SA, Vol. 8 (2), Autumn 1991, p.29.
[65] Mabin. A, 'Negotiating the shape of metropolitan government', p.5.
[66] Schedule 1 of the LGTA.
[67] Telephonic interview with Peter Mansfield, 2005.1998.
[68] Khan F., Metropolitan Case Study, p.6.
[69] Bekker et al, 'Local government transition in five Eastern seaboard South African towns', p.52.

The provision that half of the forum's members should belong to the statutory side and half to the non-statutory led also to considerable controversy. For example, in the northern sub-structure of Durban, the small former BLA of Hambanathi was the only non-statutory area. As a result, it enjoyed disproportionate representation compared to the Indian and white councils.[70]

In Durban, it was in June 1994 that the Greater Durban Metropolitan Negotiating Forum was established. The institutional framework ensured that in all the committees given the task of preparing or taking the decisions, parity between statutory and non-statutory groups would be respected. Five sub-committees were given the job of handling the objectives of the negotiating forum.[71] The sub-committees reported to a Co-ordinating Committee which included the co-chairpersons of all sub-committees plus the six members of the Strategic Management Committee. In turn, the Co-ordinating Committee made recommendations to the Joint Technical Committee (JTC). The 84 members of the JTC (chaired by Peter Mansfield), represented a broader constituency which further considered decisions before putting them to the Forum Plenary. Most of the statutory members were borough councillors from throughout the metropolitan area.[72]

2.1.2 - The second step

The second step for the forums in urban areas, was to decide on the type and size of the future transitional body. Three options were proposed by the legislation:

- Transitional local councils (TLCs) in small urban areas, which would amount to the creation of a local authority covering formerly white, black, coloured and Indian urban areas.[73] This would be done by extending the area of jurisdiction of the white local authority;

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[70] Christianson D., Perspective: Institutional Restructuring in KwaZulu-Natal, unpublished report for the DBSA, March 1996, p.9.

[71] See Johnston A., 'Durban-Style democracy', Indicator SA, p.59. The objectives of the forum were to: propose boundaries for the metropolitan area; consider application for membership in the Forum Plenary; deal with finance, powers and functions of the future structure; review the management, administration and training set up; look at legislation.

[72] Ibid.

[73] TLCs were formed through amalgamations of racially divided urban settlements. Formal townships and urban informal settlements were part of the local forums and seemed likely to become the basis for the future TLCs. The inclusion of the rural areas was hardly considered by the forums at all. For example, in the case of Margate, "some of the formerly white towns amalgamating under the TLC had previously been amalgamated in one local authority. They became separate local authorities in 1980. The history of amalgamation and separation made the process of re-amalgamation a politically contentious and difficult business. The issue of the rural areas was quite a marginal one." There were some moves to include rural areas (farming areas) between Margate and Gamalakhe (the black township) but only because of fear that Gamalakhe could be excluded from the forum. See McIntosh A., Vaughan A, Xaba T., The Rural Local Government Question in KwaZulu-Natal: Stakeholders' Perspectives, Durban, RCF, February 1995, p.12.

- Transitional metropolitan sub-structures (TMSs) in metropolitan areas which would be local councils in metropolitan areas covered by an over-arching transitional metropolitan council (TMC);[74]
- Local government co-ordinating committees (LGCCs) which would only serve as an umbrella body to facilitate joint services management between the existing local authorities. This option offered the possibility for racially defined local authorities to remain in place with the addition of the LGCC as an umbrella body. It aimed at responding to the threat of mass action and destabilisation coming from the CP and the Transvaal municipal association.[75]

On the whole, according to Swilling,

> *... the process of mandatory negotiations has been very successful. For example, statistics released on 23 November 1994 by the government revealed that approximately 70% of local negotiation forums had been established and that by the end of the first quarter of 1995, most forums had reached agreement on the establishment of transitional metropolitan councils (TMCs) or transitional local councils (TLCs). Given that this amounts to about 400 different agreements, this represents a ground swell of consensus-building around non-racial modes of governance at society's grass roots.*[76]

This statement can be applied to the Durban negotiating forum which reached a consensus rather quickly on the issue of the size of the proposed council. The 'Agreement for the Establishment of a Transitional Metropolitan Council and Transitional Metropolitan Sub-structures'[77] provided for a 150-member metropolitan council, as well as four sub-councils (namely Central with 130 councillors, Southern with 48 councillors, Northern with 42 councillors and Western sub-structures with 80 councillors). The executive committee of the Durban TMC was a 15-member multi-party body.[78]

But the positive picture painted by Swilling hides a more complex reality. While in Durban, the main problem which prevented the TMC being proclaimed before 1 June 1995 was the one of boundaries, in Pietermaritzburg, it was the choice between the three options which

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[74] The LGTA defines a metropolitan area as one which comprises the areas of jurisdiction of multiple local governments; which is densely populated and has an intense movement of people, goods and services within the area; which is extensively developed and urbanised and which economically forms a functional unit. (Part I, Section 1(1)(vii) of the LGTA).

[75] Cloete F., Local Government Transformation , p.19.

[76] Swilling M., 'A review of local government and development in the Southern African region', in Reddy, Readings in Local Government, p.20.

[77] Greater Durban Negotiating Forum, Agreement for the Establishment of a Transitional Metropolitan Council and Transitional Metropolitan Sub-structures in Terms of Section 7(1)(b)(ii) of the Local Government Transition Act, 1993.

[78] The Mercury, 13.06.1995

was problematic. The forum which met over a two-year period, could not reach consensus over the metropolitan or TLC options. In order to comply with the definition of a metropolitan area laid down in the LGTA, areas such as Howick and Hilton had to be incorporated into Pietermaritzburg. The ANC and the IFP strongly favoured the metro solution[79] whereas the NP and the DP "preferred the non-metropolitan option with the Mphophomeni/Howick /KwaMevana complex having its own TLC."[80] The dissension ran high inside the statutory camp where Howick, Ashburton Health Committee and Mount Michael did not want to amalgamate with Pietermaritzburg.[81] By November 1994, the forum was reported to have been deadlocked three times over the issue.[82]

2.2 - The nominated councils

2.2.1 - In urban areas

The local options which the forums had defined for the future of their areas had to be ratified by the provinces. Then the forums became officially TLC, TMS or LGCC. Local councillors were nominated by their caucus (statutory or non-statutory). Half of the seats was reserved for those who had previously participated in local government and half for those who had not.

Most local negotiating forums were replaced by TLCs. They assumed political responsibility in place of the former councils, while the former administrations of white, Indian and black local authorities formed the starting point for a new administration.[83]

They were charged to make proposals on the:

- Creation of inclusive structures;
- Demarcation of the boundaries of the new municipality;
- Preparation of the first inclusive local election. This included delimiting the ward boundaries, registering the voters, ensuring voter education.

The appointed councils would also have to run the local authority as usual which meant providing the services that the former local authorities provided.

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[79] The IFP and the ANC hoped that by establishing a metropolitan council, redistribution of wealth could be hastened between advantaged and disadvantaged areas. See The Natal Witness, 14.10.1994.
[80] The Natal Mercury, 15.08.1994 and The Natal Witness, 13.10.1994.
[81] The Natal Witness, 16.08.1994 and The Natal Mercury, 13.10.1994. According to McIntosh (McIntosh, Vaughan, Xaba, The Rural Local Government Question, p.13), "some existing councillors feared that they would be unable to articulate the interests and concerns of their constituencies within such a large structure".
[82] The Natal Mercury, 24.11.1994.
[83] International Republican Institute, Institute for Social and Economic Research, Perspectives on Local Government. A Handbook for Local Government Councillors, Durban, IRI, August 1995, p.34.

Some appointed councils came into being prior to the April 1994 elections, thus respecting the paragraph of the LGTA asking for local forums to submit "any agreement reached to the Administrator within a period of 90 days after the date of commencement of this Act."[84] For example, the appointed Port Elizabeth one city council began its meetings in February 1994. But in many other cases, particularly in the most complex metropolitan areas, new councils asked for an extension period from the Administrator and were only appointed at the very end of 1994 or even in 1995. The Johannesburg council, for example, was not published in the Provincial Gazette until December 1994, and others came even later.[85] In consequence, a Local Government Elections Task Group (LGETG) was created (co-chaired by Frederick van Zyl Slabbert and Kehla Shubane) to apply pressure in hastening the process, in order that local elections might be held as soon as possible. In Natal, Kokstad, Matatiele, Greytown and Ixopo TLCs were the first to be approved by Peter Miller, MEC for local government.[86] But by that time (August 1994), most of the urban areas were very late in their transitional process and MEC Miller had approved only 12 negotiating forums, including the Durban one.[87] It was only in May 1995 that Steadville, eZhakeni and the "white" Ladysmith joined to form the new TLC[88] and on 1 June 1995, that the Durban transitional metropolitan council (TMC) was proclaimed.[89]

The visible changes introduced in the pre-interim phase were limited. For example, the establishment of the TMC and its sub-structures did not mean a big change at first in terms of services provision or employment of staff. Section 18.2.1 of the Agreement[90] states that "services provided by the Development and Services Board and the KwaZulu-Natal government should continue to be provided and the assets of such bodies employed in such areas should continue to be so employed until further agreement on administrative arrangements is reached". It was too early to try to amalgamate the 65 local authorities in the Durban metropolitan area (cf. annexe IV) and to take over from the different service providers present in the area. Besides, this was only a nominated council which was in charge of the interim period, before the creation of an elected and legitimate one. Nonetheless, the pre-interim council started its work and technical committees were set up in council to help it.[91]

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[84] LGTA, Part IV, Section 7(1)(iii).

[85] In Cape Town, the transitional metropolitan council was established in February 1995 and the boundaries of the six new metropolitan local councils proclaimed in December 1995. See Fisher S., 'A case study: metropolitan government', Paper delivered during the Conference organised by the Fiscal and Financial Commission, Designing Local Government for South Africa: Structures, Functions and Fiscal Options, 23-25 July 1997, p.2.

[86] The Natal Witness, 05.08.1994.

[87] Ibid.

[88] Ladysmith Mayoral Report, 1994/1995.

[89] Business Day, 31.05.1995.

[90] Greater Durban Negotiating Forum, Agreement for the Establishment of a Transitional Metropolitan Council.

[91] Executive committee, Housing, RDP and Planning, Community Services, Infrastructures and Services, Economic Development, Safety and Security, Transport and Markets. See Durban Metro, Durban

Policies began to emerge and, for example, on 20 November 1995, the council adopted a formal policy in respect of employment and affirmative action.[92]

But for the citizens, what was immediately noticeable was the political change in the council. In June 1995, the top posts were shared between the ANC and the IFP in the metropolitan council. The IFP's Sipho Ngwenya was elected mayor of the metropolitan area after having won the support of the NP and DP. The chairmanship of the executive committee went to the ANC's Obed Mlaba, with the support of the IFP.[93] When it came to the sub-structures, Johannes Mile (IFP) was elected mayor of the Durban central city council (area comprising the former Durban City council and townships such as Umlazi and KwaMashu) with the former Durban Mayor Mike Lipschitz as his deputy. Councillor Joyce Abrahams (IFP) was elected mayor of the Northern council (including Umhlanga Rocks and Verulam). IFP candidates also won the Southern and Western councils (respectively Jerome Mshengu and Sipho Mlaba).[94]

2.2.2 - In rural areas

So far, this chapter has been confined to the transformation process in urban areas. Indeed, an important characteristic of the negotiations at national level was the lack of provision for local government in rural areas. The idea behind the LGTA was to draw from the past to build the future. But this was an impossible strategy in rural areas where there was nothing to build upon. During the apartheid period, services in rural areas were not provided by local government but by homelands, provincial and national departments or agencies.

McIntosh notes that:

> *The rural local government issue was first raised by the National Land Committee in collaboration with SANCO and the ANC before the elections at the time the LGTA was being negotiated in the NLGNF. Although a technical committee established by the forum produced a set of acceptable principles*[95] *according to which the matter might have been pursued, these principles did not find their way into the LGTA.*[96]

Transitional Metropolitan council. A Brief Introduction to the Durban Transitional Metropolitan Council, 1 June 1995 to December 1995, Durban metro, January 1996.

[92] Ibid., p.3.

[93] The Mercury, 13.06.1995.

[94] The Mercury, 13.06.1995. This pre-eminence of IFP councillors in Durban, is explained by the fact that the parties agreed that the councils would be composed during the pre-interim phase by one third of existing councillors; one third of councillors from the ANC alliance and one third of IFP. "What happened is that the IFP got together with the old councillors and so they formed in most cases two thirds of the council." Interview with cllr L. Naidoo, ANC chairman of the exco of the North local council and ward councillor, Umhlanga, 23.10.1997.

[95] The task team was only appointed by the Ministry of Constitutional Development and Provincial Affairs in July 1994. It laid down 'parameters' within which provinces could finalise their own model The document produced argued for a two-tier model; for elections held on a ward and PR basis and for

The Local Government Transition Act disestablished RSCs and JSBs[97] and allowed for the appointment of "service council, sub-regional council or district councils". The Act does not itself provide for rural councils. Two amendments to the LGTA in 1994 and 1995 enabled the legislator to establish some.[98] No mention is made of a pre-interim phase in rural areas where forums would be established. The rural communities were not given the opportunity to form forums and discuss the future characteristics of their local authority. Consequently, the rural councillors did not benefit from the "adaptation period" of the pre-interim phase, where the "statutory and non statutory sides" learnt to negotiate together, neither did they feel that they had been able to make a contribution to the "form" of their regional councils.

McIntosh[99] explains this absence of provision for rural areas by the fact that urban concerns and issues had overshadowed those of the rural areas. He echoed Collinge who states that:

> *The urban crisis - the collapse of township administration, non-payment for services and the erosion of service systems - virtually drove local government restructuring.*[100]

Indeed, we have seen that it was mainly the pressure exerted on the apartheid government in urban areas which brought the NP government to the negotiation table. It was (and remains at the time of writing) in the urban areas that people are more organised, that they are able to lobby political parties, that they are able to voice their concerns. It is also in the urban areas that the physical divisions of the apartheid policy were the most visible, creating a dominant discourse about "amalgamation" and the "one-city" slogan. The model of transition designed by negotiations at national level was tailored for urban areas. The idea of a participatory forum and the two caucuses could not really be applicable to scattered rural communities which did not know anything about local government.

Another consequence of this lack of guidance given for rural areas was that the model of rural local government was left to the discretion of the provinces. In November 1994 the amendment to the LGTA[101] gave the provinces the powers to adopt their own model, thus

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the inclusion of tribal areas into municipal boundaries. See Collinge J. A., 'Rural areas remain the orphans of South Africa', in Democracy in Action, Vol. 9 (2), Johannesburg, IDASA, 18.04.95, p.11.

[96] McIntosh A., 'Rural local government in South Africa. The context, the theory and the process', in Reddy, Readings in Local Government, p.245. See also McIntosh A., 'The rural local government debate in South Africa: centrist control or local development', in Reddy, Perspectives on Local Government, p.61.

[97] LGTA, Section 10(3)(i)

[98] The Proclamation R174 of 1994: Amendment of the LGTA 1993 by the State President, No. R.174, November 1994, provided for the establishment of "a transitional council for rural areas". The LGTA Second Amendment Act, 1995, gazetted on 20 October 1995 (No. 16789) provided for different local government structures (transitional rural councils, transitional representative councils and district councils).

[99] McIntosh A., 'Rural local government', in Reddy, Readings in Local Government, p.245.

[100] Collinge J. A., 'Rural areas remain the orphans of South Africa', in Democracy in Action, p.10.

[101] Proclamation R174 of 1994: Amendment of the LGTA 1993 by the State President, No. R.174, 1994.

following the interim constitution of 1993 which made local government a provincial competence.

Many provincial governments considered the RSCs/JSBs as the basis on which to build local government in rural areas and gave them the task of voter registration and other aspects of election preparation. This was controversial since, in their structure and composition, RSCs remained untransformed apartheid institutions for a lot of rural communities.

Thus, the framework of the process which was due to take local government from its fragmented and undemocratic era to a new one, was provided at national level. In the same way as the negotiation process at national level was inclusive of past and present forces, the local level had to use previous defenders of the apartheid local government system and the ones who fought it, in order to imagine a common future (and to use the expertise of those formerly involved in the third-tier of government). On the other hand, the creation of bodies such as the Demarcation Board, the Provincial Committee on Local Government and the fact that the Administrator (in Natal, MEC for Local Government and Housing Peter Miller) enjoyed wide powers over the process,[102] ensured that the two components in the local negotiations could not use this freedom to block the decision-making process.

Substantial achievements of the NLGNF are undeniable. It succeeded in promoting the framework for an inclusive process at local level. Even though policy formulated at the centre revealed severe weaknesses (like the lack of provision of rural areas), the first phase of a 'bottom-up' process of local government establishment proved reasonably effective. The main reason for this achievement according to Cloete[103] was the total collapse of black local governments. The negotiated settlement was relatively easy because on both sides "alternatives of either a continuation of the mutually hurting deadlock or an escalation of violent conflict, were too ghastly to contemplate".

3 - The model of local government for the interim phase in KwaZulu-Natal

The interim constitution[104] is silent on the subject of the model of local government. Section 174 alludes to the matter but only to state that:

> *... a law referred to in subsection (1) may make provision for categories of metropolitan, urban and rural local governments with differentiated powers, functions and structures according to considerations of*

[102] The Administrator could, where there was no forum, establish one. Besides, a forum was a forum only if the Administrator recognised it. Within 90 days after the promulgation of the LGTA, forums had to furnish details of their agreements. If not, Administrator within 30 days was to facilitate an independent mediation. If consensus was not reached, the Administrator or the Provincial Committee had to appoint a TMC or a TLC.

[103] Cloete F., 'Local government restructuring', in Politikon, p.63.

[104] Act No. 200 of 1993

demography, economy, physical and environmental conditions and other factors which justify or necessitate such categories.[105]

The final constitution establishes three categories of municipalities.[106] In category A, a municipality has exclusive municipal executive and legislative authority in its area (it is the case of the TLCs). In category B, a municipality shares municipal executive and legislative authority in its area with a category C municipality within whose area it falls (this is the case of metropolitan sub-structures or transitional representative/rural councils in rural areas). In category C, a municipality has municipal executive and legislative authority in an area that includes more than one municipality (this is the case of metropolitan councils and district/regional councils).

In addition, national laws must define the different types of municipality which may be established, within each category. Provincial legislation will then be passed in each province to establish these different types.[107]

3.1 - In urban areas: transitional local councils

3.1.1 - Pulling racially segregated areas together

The TLCs are the simpler case when it comes to explaining the model of local government. They have adopted the ways of functioning and powers of the old white local authorities. Some TLCs replaced old local structures without amalgamating with new areas (for example Underberg and Himeville in the central Drakensberg), but most of them extended their boundaries to include black, Indian or 'coloured' areas.[108] In this case, the new local authority in urban areas continues to manage the former white town and extends its service provision to the new areas included in its boundaries. Other TLCs were established in areas which previously had no representative local bodies. If the new municipality did not comprise any former white local authority (in the case of Ulundi for example), a new administration had to be set up from scratch, based on what could be used from the old system (R 293 administration).

The drawing together of formerly racially divided areas found a very specific expression in the electoral arrangements. Schedule 3 of the Local Government Transition Act and section

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[105] Interim Constitution, Section 174(2).

[106] Constitution of the Republic of South Africa, Chapter 7, Section 155.

[107] Ministry of Constitutional Development and Provincial Affairs and the White Paper Political Committee, South Africa's Local Government, A Discussion Document, Towards a White Paper on Local government in South Africa, 1997, p.23.

[108] According to Peter Mansfield (the former chairman of the KwaZulu-Natal Demarcation Board), the most important criterion which was taken into account to draw the boundaries was the one of inclusivity: "even if two areas (one white and one black) were far away from each another, we would try to form a single local authority where possible. One of our tasks was to erase the apartheid boundaries". (Interview, 05.02.1997).

245 of the interim constitution contain the transitional arrangements for the delimitation of wards and the mode of election of councillors. In the first democratic local elections, half of the ward representatives represented traditional white, coloured and Indian areas in the local authority's jurisdiction (those wards were called A wards). The other half represented black local authorities and areas traditionally outside municipal boundaries (those were called B wards). This formula was a political compromise made to protect the interests of minority communities. This amounted to restricting black representation in most of the local authorities, except in predominantly white or coloured local authorities. During the interim phase, a "government of local unity", produced by a special electoral system, would manage urban areas.

This clause led to problems in the delimitation of internal ward boundaries, an issue which will be discussed below, in the context of the Durban area. But the problems of boundaries were not only internal ones. In KwaZulu-Natal, what was at stake was also the inclusion, or exclusion of traditional areas in the TLC boundaries.

3.1.2 - The problem of delimitation of boundaries

The fact that the KwaZulu homeland included some territories adjacent to large urban areas, explains the presence of a large number[109] of 'rural' people residing in the outskirts of cities and towns and who live in tribal areas. Over time, these settlements have become functionally urban in character. The existing tenure arrangements and the lack of capacity of the former KwaZulu government led to those areas being very poorly serviced and left without basic infrastructure.

In 47 out of the 61 KwaZulu-Natal TLCs, the provincial Demarcation Board proposed alternative boundaries to those proposed by the negotiating forums, which in 11 cases, included portions of tribal authority areas.[110] The Board made some contentious proposals, for example, combining Scottburgh and Umzinto (South Coast), joining Dundee and Glencoe (Northern Natal), consolidating Dalton and Cool Air (Midlands). But on 26 June 1995, after the recommendations were submitted to the MEC for Local Government and to the TLCs, and after concurrence was reached between the MEC and the PCLG, the boundaries of 53 of 61

[109] According to the Durban metropolitan administration, compared to a metropolitan population of about 2.4 million, 0.4 million people are living just beyond the metropolitan boundary and are functionally part of the greater metropolitan region. See Durban Metro, Towards a Spatial Development Framework for the Durban Metropolitan Area, draft discussion document, February 1997, p.4. McCarthy notes the presence of a "large and growing population connected with the economy of Mandeni [and which] resides in informal settlements falling under the jurisdiction of Chief Mantonsi". McCarthy J., Hindson D., Peart R., A Local Economic Strategy for Sustainable Development in the Mandeni TLC Area, Durban, ISER, 1997, p.17.

[110] Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, p.23.

TLCs were finalised. The eight cases which remained unresolved[111] were all contentious because of the proposed inclusion of tribal areas in the municipal boundaries.

The conflict was part of a larger one between the ANC and the IFP over the place and role of 'tradition' in the politics of KwaZulu-Natal.[112] The ANC's position was to include tribal areas in the Durban metropolitan area and the eight transitional local councils According to the party, the inclusion would have made it easier to finance and provide the services as well as to manage the cities and towns as functional entities. On the contrary, the IFP was against this move because it would have amounted to losing its sphere of influence based on the amaKosi, who would have had seats on a council not dominated by the IFP and with a stronger ability to deliver than in the regional councils. Besides, the amaKosi would not have weighed much in the metro council where the ANC is dominant. Falling under regional councils more likely to be dominated by IFP councillors, would enable the party to control the majority of the regional councils, thanks to an alliance between the IFP and amaKosi.

An agreement was obtained between the MEC and the PCLG on 28 November 1995 concerning the eight TLCs, after the Special Electoral Court settled the dispute on the outer boundaries of the metropolitan area and pressurised the two to "endeavour to reach agreement". As the Court had decided on the exclusion of the tribal areas from Durban's jurisdiction (cf. below), it was more than likely that the same would happen for the TLCs and the MEC and the PCLG agreed on the exclusion of tribal areas from TLCs' boundaries.[113]

3.2 - The metropolitan area of Durban

3.2.1 - A two-tier local government

Metropolitan government is new in South Africa. Before the LGTA, the coherence of conurbations was never given any administrative expression[114] The Act provided for the possibility of setting up an umbrella body which would ensure the co-ordination of service provision and look at metro-wide strategies. In order to overcome a fragmented and inefficient city management, metropolitan government was seen as essential in order to promote:[115]

- Integrated economic development;
- The equitable redistribution of municipal resources;

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[111] Margate, Eshowe, Richards Bay, Mandeni, Ulundi, Port Shepstone, Empangeni, Inyala/Mtubatuba.
[112] See Johnston A., 'The clash that had to come: African nationalism and the 'problem' of traditional authority', KwaZulu-Natal Briefing, No. 1, March 1996, pp.11-15.
[113] See Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, p.26.
[114] For example what is now the Durban metropolis was composed before the amalgamation into 4 and then 6 local councils of more than 60 - sometimes very small - local authorities (cf. annexe IV)
[115] Local Government Transition Second Amendment Act (Act 97 of 1996), Section 10 C.(1). See also Ministry of Constitutional Development and Provincial Affairs and the White Paper Political Committee, Green Paper on Local Government, October 1997, p.39.

- The equitable delivery of services.

so as to ensure that imbalances that may exist, are addressed.

Transitional metropolitan councils (TMCs) were established in six South African urban areas: Greater Johannesburg, Greater Pretoria, Vaal/Lekoa, Kyhalami, Greater Durban and Cape metropolis.

Within each TMC there is a second 'level' of local government: the transitional metropolitan sub-structures (TMSs) called also 'local councils' to make the point that they are not mere sub-divisions of a metropolitan council and that they are autonomous. The two-tier model was clear in the LGTA. What was more contentious was the separation of powers between the two tiers. Wooldridge explains that the LGTA was "simply a starting point for negotiations on the allocation of powers and functions between local structures and the metropolitan tier." [116]

As a consequence, the present system of metropolitan government is characterised by uncertainty. This is the first negative aspect of the metropolitan model:

> *There is also no clear framework to regulate the fiscal relationship between the various structures of metropolitan government. For example, it is not clear which structure is entitled to receive the money raised through rates and taxes, and for what purposes that money can be used.* [117]

In Durban, the division of powers and functions between metro and sub-structures[118] has left some critical areas (for example the control over land use planning) in limbo. 'Co-ordination of land usage' is the responsibility of the metro[119] but in each sub-structure, land usage is determined by discussion between the metro and the local councils.[120] This 'co-ordination of land usage' refers essentially to economic planning for the entire metropolitan region (deciding major capital investment and infrastructure priorities, marketing the city, etc.). However the sub-structures' control of land use constitutes a check on the effectiveness of metro planning.

From a fiscal point of view, the TMC enjoys strong powers, i.e. the power to levy:[121]

- The regional services and regional establishment levies;

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[116] Wooldridge D., 'Metropolitan government', unpublished paper delivered at the Electoral Institute of South Africa's conference, The Local Government Conference, Johannesburg, 25-26 November 1997, p.3.

[117] Ministry of Constitutional Development, South Africa's Local government, A Discussion Document, p.34.

[118] As spelt out in the Provincial Gazette of KwaZulu-Natal, No. 5111, 01 March 1996, pp.659-662. Cf. annexe V.

[119] Cf. annexe VI for the list of the Durban metro and local councils' functions. Compared to the powers and duties of a TMC described in Schedule 2 of the LGTA, the Durban metro fulfil three additional functions: health services; police functions and facilitation of access to housing.

[120] Freund W. M., The Changing Role of the Local State as a Factor in Economic Planning and Development, (forthcoming).

[121] Provincial Gazette of KwaZulu-Natal, No. 5111, 01 March 1996, p.661.

- Levies or tariffs from any sub-structure in respect of any function or services performed or rendered;
- An equitable contribution from any sub-structure based on the gross or rates income of such sub-structure.

The TMC shall:

- Receive allocate and distribute inter-governmental grants;
- Have the power to borrow or lend money for the purposes of performing its powers.

The collaboration (or non-collaboration) between the tiers and the weight (sometimes called interference) of the metropolitan tier on the decisions of local councils is variable from one TMC to another. It mainly depends on the quality of the relationship between the metropolitan and local councillors and metropolitan and local officials. It is unavoidable that each tier will "defend its turf"[122] but co-operation is more likely to develop if both sides are conscious of the dependence of one on the other and if there is mutual trust.

Another negative aspect of this model is that it is complicated. The complex voting system was the first source of potential confusion. In the metropolitan areas, people had to cast three ballots. The first vote (white ballot paper) was to elect a ward representative. The second vote (yellow paper) was to elect the PR representative. Both these councillors (ward and PR) are seated on the transitional metropolitan sub-structure (TMS) level. Voters had to cast a third ballot (green paper) to choose a political party or interest group to represent them on the metropolitan council. The metropolitan council is constituted by those directly elected representatives (on the third ballot) and representatives of each constituent TMS. Each of the sub-structures nominates a number of councillors to the TMC, commensurate with the number of local voters resident in its area. This is subject to the provision that each TMS will have at least one representative in the TMC concerned. In practice, voters in Durban when casting their ballots did not differentiate between the PR candidate for their local council and the PR candidate for the metropolitan council.[123] In all the local councils, parties received the same percentage of votes except in the North local council where a slight difference was recorded in the results of the ANC and DP.[124]

Confusion is also expressed in the day-to-day relationship of the citizens with their local authority(ies). For example, a radio broadcast[125] featured disgruntled listeners trying to make sense of the system. Prof. Padayachee, chief executive officer of the Johannesburg metropolitan area was at pains to explain to the public that there were not four tiers of

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[122] As stated by a Durban metropolitan official speaking about the tensions which sometimes arise between local and metropolitan councils (anonymous interview).

[123] The comparison was made possible by the very detailed data made available by the Durban metro, on the local election results.

[124] The ANC lost three points in the PR votes for the local councillors compared to the PR metropolitan results. On the contrary, the DP gained two points.

[125] "Talk at will" on SA FM, 22.11.1996.

government but three, that local government forms one sphere with different "categories" inside, and that the metropolitan council and sub-structures have the same status.

But nobody has to understand the system to be aware that for a political party, winning the metropolitan areas in the country is especially important. Cape Town, Durban, Johannesburg, are the economic hearts of the country and their budget is greater than their respective provinces. In addition, the mayor of a big city is a prominent figure who represents his/her country as much as a premier, by trying to attract foreign investment and develop tourism. In order to win the metropolitan area in KwaZulu-Natal, the IFP and ANC tried to strike the best deal possible in terms of internal (sub-structures) and external (metropolitan) boundaries.

3.2.2 - Boundary disputes

3.2.2.1 - The sub-structure boundaries in the Durban metropolitan area[126]

The debate over the demarcation of the sub-structure boundaries was a very heated one. Each party accused the other of manipulation of the sub-structure boundaries in order to protect their own constituencies.

Preliminary proposals from the Demarcation Board in July 1995, which advocated the establishment of ten sub-structures (cf. annexe VII) based on "population balance and community interest rather than economic viability",[127] did not find favour with the IFP. The Board proposed the creation of sub-structures ranging from a large population of 550,000 people to a small population of 143,000.[128] The Indian areas of Chatsworth, Shallcross, Reservoir Hills and the white areas of Westville and Queensburgh were to form one sub-structure along with the African area of Chesterville.[129] The board also promoted the idea of purely black municipalities such as Umlazi (south of Durban) and Ntuzuma/Newtown/Inanda (northern townships and informal settlements).

In his role as MEC for Local Government and Housing, Peter Miller stated[130] that the proposals by the Demarcation Board created area councils that had no hope of standing on their own. According to him, the board's suggestions were "retaining apartheid boundaries"

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[126] The battle about Durban was echoed at the same moment in the Western Cape. The Demarcation Board's recommendations on the placing of boundaries in the Cape metro area were thrown out by provincial Local Government MEC Peter Marais who came up with his own proposals. Attempts by Marais were perceived by his opponents as preserving a white, conservative heartland in the traditional Afrikaner northern suburbs of Cape Town. According to his proposal central Cape Town was to become a clear ANC stronghold with the inclusion of Khayelitsha. On the other hand, Tygerberg (NP) would be spared the pain of paying for the upgrading of Khayelitsha. See Seekings J., 'Anticlimax: Cape Town's local elections', Indicator SA, Vol. 13 (3), Winter 1996, pp.41-45.

[127] Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, p.24.

[128] Ibid.

[129] Sunday Tribune, 02.07.1995.

[130] The Natal Mercury, 01.07.1995.

and were creating unviable sub-structures because they had no industrial base. The IFP's proposals argued for the inclusion of Phoenix in the Ntuzuma/Newtown/Inanda council and of Chatsworth in the Durban central council.[131] Miller's six sub-structures were based primarily on the criterion of economic viability.

The ANC's position was very close to the board's one. It supported the creation of ten sub-structures.[132] The fact that some of them were unviable implied the necessity for a strong redistributive power in the hands of the metropolitan council. This was consistent with the ANC idea of a "strong metro". On the contrary, Miller was said to be a advocate of the "weak metro option."[133]

The issue of demarcation was a good opportunity for the IFP and the ANC to pose as the defendant of minority groups' votes, in particular the Indians. The IFP objected to the board's proposals[134] that Chesterville be the only black township in a sub-structure including the Indian townships of Chatsworth, Shallcross, Reservoir Hills and the white areas of Westville and Queensburgh. The IFP said that to place the bulk of the Indian population in a single sub-structure would reduce their power in the council. This would mean that despite its small population, Chesterville would have more ward councillors than major Indian areas, which would have to share 50% of the wards with white areas.[135] This would lead to an under-representation for the Indian community, the IFP claimed. The IFP's Anthony Grinker[136] proposed to exclude Chatsworth and to include it in the Durban central council. He proposed also that Phoenix should be excluded from the northern local council of Durban, because that would lead to the Indians of Verulam and Tongaat having fewer wards than the tiny African area of Hambanathi.

On the contrary, the ANC's Sutcliffe said that IFP's proposals would give Chatsworth and Shallcross only four wards while the Board's proposal would give the two Indian areas seven wards. The IFP's proposals would leave Reservoir Hills with one ward, while the Board would give four. Sutcliffe said the IFP's proposals devalued the Indian vote by 15-20% but bolstered the value of the white votes. He also revealed to the press four days later[137] an ANC proposal

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[131] The Natal Mercury, 20.07.1995.
[132] Christianson D., Perspective: Institutional Restructuring, p.8.
[133] Ibid. According to Allan, "the Durban metro during the pre-interim phase was split in four local councils - West, South, North, Central. Two of them, West and Central, were very big and completely dominated the metro area. To diminish their size and dominance they were both split, producing smaller councils. The split did weaken the two central councils, which helped to strengthen the power of the metro council. There was the fierce debate at the time the boundaries were being drawn up of whether the individual councils should be self funding or not and how big should they be. The ANC preferred many small councils, co-ordinated by a wealthy and strong metro, and the IFP preferred a few large councils, with a weak metro." Interview with Craig Allan, Urban Strategy Department, Durban metro, 18.03.1997.
[134] Business Day, 28.06.1995.
[135] Cf. the specific transitional arrangements in terms of ward division between white, coloured and Indian areas (A wards) and black areas (B wards).
[136] The Natal Mercury, 20.07.1995.
[137] Sunday Tribune, 02.07.1995.

that the two Indian areas get nine wards. The dispute was settled only at the end of December 1995 when, "after extensive negotiations, the PCLG concurred with the MEC's determination in respect of the boundaries of the six metro sub-structures."[138]

The matter was settled with a victory for MEC Miller on the ground that:[139]

- The creation of unviable sub-structures was contrary to the LGTA's insistence on "viable local government bodies";
- Legal opinion from Durban legal firm Shepstone and Wylie stated that the metro did not have the authority to force the sub-structures to surrender a portion of their revenues (this was necessary to ensure meaningful cross-subsidisation);
- Higher taxation in some sub-structures would cause capital flight.

The delay had some consequences on the holding of the elections. In terms of the national legislation, ward boundaries had to be finalised by 4 December 1995, 120 days before election day. But the Durban City council had not been able to start the ward delimitation process, as the new council boundaries were finalised late.[140] It was only in March 1996 that the ward demarcation was proclaimed for the two tiers (Durban metropolitan council and local council areas).

The controversy over the sub-structure boundaries was not only driven by opposing visions of the best mechanisms to deal with poverty. Party political considerations were also a factor. The ANC was energetic in working out what sub-structure demarcations would benefit it most in local government elections. According to Christianson,[141] under the ten sub-structures proposal, the ANC would have had high hopes of winning at least some sub-structures, and the final outcome was considered - mistakenly - to be the worst case scenario for the ANC.

3.2.2.2 - The external boundaries: the problem of inclusion of tribal areas in the metropolitan area and TLCs

The positioning of the outer boundary of the metro became also a bone of contention between the IFP and the ANC, primarily as it involved the inclusion or exclusion of tribal authority areas located on the fringe of the city of Durban. The new TMC and TMSs had to make recommendations about metropolitan council boundaries, the number of sub-structures and their respective boundaries for the interim phase.[142] Consensus was not reached by the forum over the exclusion or inclusion of the 13 tribal authorities located on the fringe of the

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[138] Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, p.26. See annexe VIII.
[139] Christianson D., Perspective: Institutional Restructuring, p.8.
[140] The Mercury, 05.10.1995.
[141] Christianson D., Perspective: Institutional Restructuring, p.9.
[142] Greater Durban Negotiating Forum, Agreement for the Establishment of a Transitional Metropolitan Council and Transitional Metropolitan Sub-structures, section 25, p.7.

city. It was during the Special Electoral Court proceedings (28 November 1995) that a compromise was struck between the major parties.[143] Three tribal areas were included in the metro[144] (Fredville, Ximba and Illanga) on 20 December 1995 and ten were left out because of major problems of consultation.[145]

> *The first three consultations* [concerning the incorporation of these ten areas] *by the Demarcation Board were held at venues arranged by the Department of Traditional Affairs and were only attended by amaKosi. Furthermore the board itself felt extremely unwelcome. The other venues were neutral and the amaKosi did not attend.*[146]

These remarks from the provincial administration are confirmed by other sources which show that during 1995, the Demarcation Board found it difficult to comply with the requirement to consult widely. For example, the ANC[147] launched an action in the Supreme Court to force the KwaZulu-Natal Demarcation Board to make recommendations on the inclusion of tribal authorities in the metropolitan area of Durban. The Board had informed Miller that it could not, because serious political tensions made it difficult to hold meetings in these areas.[148] The Chief in the Umnini tribal area (on the south of Illovo, cf. annexe VIII) called the pro-incorporation residents "enemies" and opposed every meeting organised by the Demarcation Board in the area.[149]

The judgement on the incorporation of tribal areas stated that:

> ... *consultation* [with amaKosi] *was flawed... there was an incomplete and inadequate consultation process which militates against the inclusion of the Traditional Areas.*[150]

The Electoral Court Chairman (J. Smalberger) also mentioned in his judgement that the Ingonyama Trust Act[151] complicated efforts to incorporate the areas into the council.

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[143] See Pillay chapter in Cameron R., Democratisation of South African Local Government: A Tale of Three Cities, Pretoria, Van Schaik, 1999.

[144] Those areas were included in what was to become the Outer West sub-structure. Cf. annexe IX.

[145] According to Peter Mansfield, the Special Electoral Court decided to exclude the traditional areas because "it wanted to ensure that the local elections would take place, even if that meant illogical boundaries. The court was scared that if it had not ruled that way, the IFP could have again delayed the elections". (Interview, 05.02.1997).

[146] Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, p.24.

[147] Business Day, 27.06.1995.

[148] This tension did not result in violence leading to an increase in the death toll. The Human Rights Committee does not report for 1995 any death related to the Durban outer boundary dispute. However, a by-election in ward B 12 in the Inchanga/Fredville area was necessitated by the murder of one of the candidates just before the 26 June elections (The Mercury, 09.10.1996).

[149] The Natal Mercury, 27.06.1995.

[150] Extract from the Special Electoral Court's written judgement quoted in Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, p.25.

[151] The Ingonyama Trust Act, Act 3 of 1994, was passed by the KwaZulu Legislative Assembly shortly before the elections of 1994. According to it, 93% of the land in former KwaZulu or 33% of the land in KwaZulu-Natal was transferred to a royal trust. The land included tribal land, urban townships, government buildings, nature reserves, forestry projects, roads, public spaces and commercial and

3.3 - Rural areas

3.3.1 - The changes in the rural model

RSCs/JSBs which were the institutions closest to local government in rural areas[152] were "replaced" by new regional structures following elections. In fact, due to the lack of provision for a transitional period in rural areas, as well as for a new model, RSCs were to remain in the new dispensation. They did not change fundamentally as a body, except for the fact that they integrated former homeland territories. However, this was not a novelty in KwaZulu-Natal, where we have seen that the JSBs had already drawn together the bantustan and Natal. New names were given to the bodies which were supposed to ensure part of the service delivery but most of all the co-ordination of development in rural areas.[153] They are called district councils (DCs) in the different provinces, except in KwaZulu-Natal where they are known as regional councils (RCs).

What has changed in the rural model, compared to the RSC framework, is the establishment in some provinces of primary tiers of local government in rural areas. Settlement patterns and the nature of local government structure inherited, vary widely from one province to another. Bearing these two factors in mind, when the provinces set up their models of rural local government, each of them chose what it thought was more realistic.

All the provinces, except parts of the Northern Province and the whole of KwaZulu-Natal,[154] kept the overarching District Council (DC) and established primary tiers[155] such as:

- Transitional Representatives Councils (TRepCs), a kind of sub-division of district councils which cover the whole district area. In theory, they enable the rural communities to interact with a structure "closer to them". These structures have only an advisory role to the DC (representative functions and no executive powers).
- Transitional Rural Councils (TRCs) are more "ambitious" bodies, enjoying the same powers as local councils in urban areas.

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industrial sites. As the land belongs to the King, if it was to be incorporate into the metropolitan area, one of the problems would be to determine who was liable to pay the rates? Would it be the King who is the trustee of tribal land, the chiefs or the residents?

[152] See chapter 1, pp.27-34.

[153] The continuous need for DC/RC is justified by the importance of addressing spatial distortions in rural areas, managing integrated planning, and ensuring rural and urban linkages. See Ministry of Constitutional Development, Green Paper on Local Government, pp.49-51.

[154] In KwaZulu-Natal, the establishment of 'primary tiers of local government' in rural areas was not really an issue. Apart from the NGOs working in the field of rural development (for example the Regional Consultative Forum and the Association For Rural Advancement) nobody pushed strongly for the establishment of TRCs or TRepCs. The political battle was raging over other issues and the reasons for delaying the local elections were numerous enough without having to add another one.

[155] See annexe X. The LGTA Second Amendment Act, Act 97 of 1996, established TRC as municipalities. DCs are obliged to formulate an integrated development plan (IDP). DC can also develop one for the TRC. Rural local authorities are concerned by Section 10 (G) which stipulates that every municipality must conduct its affairs in an effective, economical, efficient, transparent and accountable manner. They have to prepare a financial plan according to their integrated development plan.

Rural communities during the local elections, voted for councillors who would sit at TRepC or TRC level. Subsequently, some of those councillors were nominated to sit at the district level, enabling a district-wide co-ordination of the development process.

As the LGTA did not provide for clear powers for DCs, the roles played by them vary. Their powers and functions are derived from provincial proclamations and the MEC for local government enjoys wide powers in this regard.[156]

The model was negotiated among the different local stakeholders (MEC for Local Government and Housing, PCLG, Demarcation Boards) in most of the provinces, without the intervention of the national government. It was only in KwaZulu-Natal and the Western Cape[157] that political obstructions led to clashes among provincial stakeholders, as well as between the MECs for Local Government and Housing and the Ministry of Provincial Affairs and Constitutional Development. Those two provinces were the only ones not in the hands of the ANC and under the interim constitution, what was then still called the "third-tier of government" was a responsibility of the provincial government. This made local government a pawn in a wider political game.

3.3.2 - The KwaZulu-Natal rural model

In KwaZulu-Natal, the Local Government and Housing Department, headed by MEC Peter Miller, chose a very specific option. The Joint Services Board system, which was peculiar to KwaZulu-Natal, was seen to be the most practical solution for rural areas. Miller retained the

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[156] Proclamation R 174 of 30 November 1994 established transitional councils for rural areas. The MEC alone could proclaim such a council. As a consequence, rural local government is not created by the provincial legislature but by proclamation by the MEC. This is a considerable concentration of powers. On the contrary, the structures, powers, functions and duties of urban local authorities are determined by provincial authorities. The LGTA Fifth Amendment Proclamation, 30 June 1995 (inserted in the LGTA part V (A) on rural local government) gives the rights to the MEC to establish District Council, TRC and TRepC, and determine the boundaries and number of members. The amendment states also that members of TRC are elected on PR lists and that if the MEC considers it desirable, interest groups can be accommodated.

[157] KwaZulu-Natal was not the only province where a controversy arose about the system of rural local government. Business Day reports (10.04.1996) on the problems related to the representation of farm workers and of town councils on the DC. "The NP MEC Peter Marais first proposed in the Western Cape, a model for the 27 transitional rural councils in which farmers and farm workers each nominates 30% of the seats, the remainder being elected on the basis of proportional representation. His model won support among commercial farmers and agricultural unions. The ANC objected to it because of the undemocratic exclusion of seasonal workers. Marais' second version provided for separate voters' rolls for farmers and farm workers (definition broadened) who would elect candidates from a nominated list, each group having 30% of the seats. Third proposal: each group would nominate 10%. The matter is in the electoral court. In addition to the other disagreements, the ANC is fighting to get 70% of the district authorities seats for towns councils. Marais' seemingly equitable division of representation on a 50/50 basis between town councils and rural district authorities would have entrenched the power of selected interest groups at regional level, against the democratic principles because the more densely populated and higher levy paying towns should be given a greater proportion of the seats." For further details, see Seekings J., 'Anticlimax: Cape Town's local elections', pp.41-45.

system and did not establish primary tiers of local government in rural areas. By Proclamation No. 54, 1996, which came into operation on 27 March 1996, Miller disestablished the existing five Joint Services Boards with effect from 1 July 1996 and from that date established in their place seven regional councils whose areas of jurisdiction together cover the entire province.[158] The regional councils are the direct successors of the JSBs. They inherited broadly the same functions, the same sources of income, the same administration and the same officials. The principal sign of "transformation" resides in the composition of the council. For the first time, rural local governments' councils are composed of democratically elected representatives.

The main problems concerning the rural model of local government involved the future role of traditional leaders and the status of traditional land holdings in the province, especially since all land falling within former KwaZulu areas falls under the trusteeship of the Zulu King to be managed through amaKosi in the region (in terms of the Ingonyama Trust Act). The IFP, in line with its long tradition of defence of the traditional chiefs, took a strong stand on the issue of their representation on rural councils. The interim constitution specifically mentions the presence of traditional leaders in the local government system:

> *The traditional leader of a community observing a system of indigenous law and residing on land within the area of jurisdiction of an elected local government... shall* ex officio *be entitled to be a member of that local government, and shall be eligible to be elected to any office of such local government.*[159]

The conflict between the ANC and the IFP concerned the interpretation of those lines, more precisely, the question of how many traditional leaders should be accommodated in the rural councils.

3.3.2.1 - The history of the negotiations

The issue of representation of traditional leaders in rural local government has to be contextualised in the broader dispute between the ANC and the IFP over the role and functions of amaKosi. Central government appeared to try to remove the IFP's power over the chiefs in KwaZulu-Natal.[160] In early May 1995, legislation (the Remuneration of Traditional Leaders Bill) transferring the payment of chiefs' salaries from the provinces to the central government was presented to the cabinet for approval. It was approved by cabinet in June and subsequently

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[158] Department of Local Government and Housing, Budget Speech delivered by the MEC for Local Government and Housing, Mr. P. M. Miller, in the KwaZulu-Natal Parliament, May 1997, p.6. See annexe III.

[159] Interim Constitution, Act No. 200 of 1993, Section 182.

[160] Jeffery, The Natal Story, p.567. In June 1996, the Constitutional Court ruled that the province's jurisdiction over traditional leaders encompassed their remuneration as well.

passed by the Senate and the National Assembly.[161] Apart from this threat coming from national government, the IFP had to struggle to impose its views on the role of traditional leaders to the other parties in the KwaZulu-Natal Provincial Assembly.

It was in March 1995, that the ANC described its position on the rural model of local government in KwaZulu-Natal. For the party, "traditional authorities were not local governments" in a true democratic sense and it recommended that in all tribal areas, chiefs should elect representatives in the ratio of one *ex officio* representative for every ten elected councillors in a council.[162] MEC Miller, immediately translated the issue into one opposing provincial and central government. He warned that the ANC's proposals would lead to a "mighty stand-off" between KwaZulu-Natal and the central government and that "any attempt to limit the constitutional rights of traditional leaders will be fought tooth-and-nail."[163] A draft provincial bill was released in March 1995[164] by the IFP proposing a two-tier local government system in KwaZulu-Natal in terms of which amaKosi would have executive powers. Half the members of the transitional councils, representing more than 2.5 million rural people, would be elected and the chiefs would be able to nominate the rest of the councillors.[165] When the IFP, negotiating the KwaZulu-Natal provincial constitution, put its 12 constitutional principles to the provincial legislature in October 1995, they included a provision on the regional councils. They were to be composed of elected representatives and chiefs and would be responsible for a wide range of activities (local police, housing, health, public education and public works).[166] The opposition parties walked out.

During the debate on the provincial constitution, in mid-December 1995, a draft submitted by the IFP and the NP was rejected by the PAC and other minority parties (the IFP needed the four minority parties in order the obtain the two-thirds majority necessary to pass the constitution). One strong objection to the draft concerned the provisions making traditional authorities the primary organs of local government.[167] The role of amaKosi had become a bone of contention between the IFP and the rest of the parties present in the provincial assembly. The leader of the DP in the province, Roger Burrows, said the minority parties were 'closer to

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[161] Ibid., p.526. See also Johnston A., 'The clash that had to come', KwaZulu-Natal Briefing, No. 1, pp.11-15; Claude N., 'KwaZulu-Natal's new constitution: no losers... any winners?', KwaZulu-Natal Briefing, No. 1, pp.1-3; Claude N., 'Whither the Imbizo?', KwaZulu-Natal Briefing, No. 1, pp.4-11.
[162] Business Day, 22.03.1995
[163] Jeffery, The Natal Story, p.627.
[164] The Natal Mercury, 06.03.1995.
[165] This was considerably less radical than the IFP position at the beginning of 1995, which totally excluded rural voters from the polls. The Natal on Saturday reported (28.01.1995) that "Miller announced that registration for voters in urban areas will begin on 3 February - effectively excluding more than 2.7 million voters living in tribal areas".
[166] Jeffery., The Natal Story, p.619.
[167] The Star, 13.12.1995.

the IFP on the issue of provincial powers, but closer to the ANC on the role of traditional leaders.'[168]

The IFP found itself alone in the provincial assembly, defending the role and functions of traditional leaders at local government level. Minority parties were reluctant to endorse a provincial constitution which did not have the support of the ANC. Under these pressures, the chiefly portion in the rural local government model was negotiated down to 50, 30 and then 20%.[169] Following negotiations between the MEC and the Provincial Committee for Local Government, an agreement on the rural model of local government was reached on 18 December 1995. According to the Minutes of a PCLG meeting held on 20 December 1995, the entire province was to be divided into regions; traditional leaders were entitled *ex officio* to a seat; and two interest groups would be accommodated. In reaction, the ANC made an application to the Supreme Court, contesting the right of traditional leaders to an *ex officio* position.

By 22 March 1996, parties were supposed to have registered their candidates but the Electoral Court still had to decide what kind of council those candidates would be elected to.[170] Indeed, the problem of the status of amaKosi remained and the dispute was to be heard by an electoral court on 1 April 1996. But in a surprising move,[171] MEC Miller said that after discussion with the ANC,[172] it had been agreed to "divorce" the issue of whether or not tribal chiefs were entitled to *ex officio* representation on regional councils from the proclamation which made provision for the holding of local elections in rural areas:

> *The outstanding issue as to whether all eligible amaKosi are of right entitled to representation on the regional councils, which is my interpretation of the constitution, or whether they are entitled by right to serve on such bodies as is averred by the ANC, will be subject of separate proceedings which will, in all likelihood, result in the constitutional court being asked to give a definitive ruling on this issue.*[173]

Miller said that the elections could take place in the whole province. "Absolute finality on the question of *ex officio* representation of the traditional leaders needs only to be obtained by late June in time for the official launch of regional councils on July 1."

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[168] Jeffery, The Natal Story, p.618. See Johnston, 'The clash that had to come', KwaZulu-Natal Briefing, No. 1, pp.11-15; Claude, 'KwaZulu-Natal's new constitution', KwaZulu-Natal Briefing, No. 1, pp.1-3; Claude, 'Whither the Imbizo?', KwaZulu-Natal Briefing, No. 1, pp.4-11.

[169] Ewing D., 'Life and death poll' in Democracy in Action, IDASA, Vol. 10 (2), 15 April 1996, p.7.

[170] Ibid.

[171] According to Peter Mansfield, then Durban chairman of the exco, Miller found himself - and still is - "in a difficult position concerning the *ex officio* status of traditional leaders. By delaying the decision on the matter, he thought that the elections would be able to take place on time and that an agreement would be able to be reached more easily." Telephonic interview with Peter Mansfield, 20.05.1998.

[172] The Mercury, 28.03.1996.

[173] Ibid.

The agreement meant that the special court hearing on 1 April to make a ruling on the dispute would no longer be needed. It meant also that rural citizens would go to the poll without knowing clearly the weight of their vote and what kind of structure they were voting for.

3.3.2.2 - The composition of the regional councils

The following table[174] illustrates the different components of the regional council, as well as their numerical weight.

Table No. 1: the different components of the KwaZulu-Natal regional councils

Regional Council	1	2	3	4	5	6	7	TOTAL
Elected cllrs	187	93	33	61	121	132	132	759
Levy payers	23	12	4	8	15	16	16	94
Women	23	12	4	8	15	16	16	94
TLCs	35	23	59	31	101	24	44	317
Trad. leaders	**67**	**35**	**25**	**27**	**63**	**47**	**52**	**316**
TOTAL	335	175	125	135	315	235	260	**1580**

The first component of the regional councils is made up of the councillors directly elected by the rural communities during the 26 June 1996 elections. The candidates had to run on a political party ticket because the elections were based on the proportional representation (PR) list and not on wards. Very few "independents" (representing development forums in general) competed. When they did, they won no more than a handful of seats. McIntosh questions the representivity and accountability of those PR councillors:

> *Newly established structures of local government with relatively weak constituencies can hardly be expected to carry the necessary political authority to pursue their local political and developmental priorities.*[175]

Secondly, the TLCs are entitled to have representatives in the regional council where they are located. The same applied in the old JSB system. Their numbers are calculated in accordance with the ratio between the number of registered voters within such area and the number of registered voters in the region. In some regions like the Midlands (regional council No. 5), the high number of TLCs gives a very important role to urban councillors.

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[174] Provincial Gazette of KwaZulu Natal No 5116, Proclamation No. 54, 1 April 1996, p.1017

[175] McIntosh A., 'Towards a new rural local government system in South Africa: Possible options', in Transformation 23 (1994), p.71

Thirdly, two interest groups have been recognised by MEC Peter Miller, in terms of the section 9D(2)(b) of the Act (Local Government Transition Act). Those are levy payers and women. The representatives of the latter group owe in fact their seats to political parties because the seats women are entitled to, are allocated to parties in proportion of the political results of the elections. A circular dated 9 July 1996[176] from the Department of Local Government and Housing determined the process of nomination for the levy payers. Only rural levy payers registered on 26.06.96 could be invited to nominate other registered levy payers. A minimum of a third of those seats must go to farmers. A letter was sent to all concerned, inviting for nominations. A nominated person should have a proposer, a seconder and 20 supporters. In general the exact number (or less) of levy payers was proposed, following meetings organised by the farmers' associations.[177]

Finally, all traditional leaders[178] are entitled to a seat in the regional council. In fact, it is the number of traditional leaders in a regional council, which determines the total number of rural councillors in a specific region. The principle was that traditional leaders could not form more than 20% of the total. So if the number of amaKosi in a region is multiplied by five, one can obtain the total number of councillors.[179]

CONCLUSION

The institutional framework for the local government transitional period (pre-interim and interim) had been provided by the LGTA. The legislation was ambitious because it trusted local stakeholders in their desire to establish racially-blind local government areas. Through the establishment of local forums, it gave the opportunity for parties which had never had to meet before, to discuss the way forward. In particular in the small and medium urban areas where TLCs were to be set up, the phases imagined for the transition would enable the new council to be legitimate in the eyes of the voters. This legitimacy does not come from the 1995-1996 local elections but from the negotiating forum processes. Their objective of inclusivity and representivity would mark the transformation process until the reach of the "final stage".

But the LGTA is clearly a short-term piece of legislation with a lot of loopholes. The rural model lacks clarity as well as the relationships between TMC and TMSs. The legitimacy gained by the TLCs thanks to the urban forums is unlikely to be achieved in the case of rural

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[176] Document found in the uThukela regional council, Agenda of the Exco, 23.10.1996.

[177] The researcher never came across a situation whereby there was a competition between levy payers to sit in the regional council.

[178] Those who have been identified by the Presidential Proclamation R109, 1995.

[179] This delicate balance between the presence of traditional leaders and councillors is not likely to be reached with the next municipal elections. The Municipal Structures Bill states that "the number of traditional leaders participating in the proceedings of the district... may not exceed ten per cent of the total number of councillors of the district or local council." See Ministry for Provincial Affairs and Constitutional Development, Local Government: Municipal Structures Bill, Pretoria, Government Gazette, Vol. 395, No. 18 914, 22 May 1998.

areas, where there is no tradition of local government on which to build upon. Rural communities did not have the opportunity to express themselves on the question of the type of structures they wanted. Moreover, the rural councillors elected on a party ticket do not have any official constituencies and are expected to represent huge areas. In the case of Durban TMC, the two-tier system complicates the power game, creates time delays and blurs the understanding of people's metropolitan government.

Boraine criticises the fact that:

> *... the LGTA did not spell out a new vision of local government and did not put in place a new system. It simply took out the abnormal apartheid provisions of the existing system.*[180]

Besides, difficulties were numerous when it came to decide on issues which would have an economic and social long-term impact on the local authorities. In KwaZulu-Natal, the question of the inclusion of the traditional areas in the TLCs' boundaries was an important one seeing their serious lack of infrastructure and their needs in terms of service provision. But with the on-going battle between the ANC and the IFP in order to determine clearly who is the "master of the province", the local government pre-interim phase was an ideal moment for the two parties, to ensure that the model established in the province would give them the maximum opportunity to gain ground in the next local elections. This was all the more important as the 1994 elections were tainted with suspicion as far as the results were concerned. However, service delivery coherence and communities' needs were sometimes sacrificed to the parties' political games.

[180] Boraine A., 'Local government and the new constitution', INLOGOV Seminar Series 1/1996, May 1996, p.5.

Chapter 3
The local elections in June 1996

The model of local government created by the national negotiations in 1993[1] was the cause of much dispute between the IFP and the ANC in the year preceding the local elections. Problems such as the accommodation of amaKosi in rural local government and the internal and external delimitation of TLCs, TMSs and TMC in urban areas, led to fierce battles between the two political parties. KwaZulu-Natal was the last province[2] to agree on a structure for local government and whereas all the other South African local authorities had been headed by a democratically-elected council since 1 November 1995, the citizens of the province went to the polls only on 26 June 1996, after three postponements.[3]

These delays were part of a climate of great insecurity which marked the province's politics in the first half of 1996. Parties were becoming more and more aggressive in their speeches. Local elections were not about choosing local councillors who could deliver services to the rural and urban population. Local elections were about testing the power of the two main parties in the province and saying yes or no to Mandela's government at the national level. Verbal attacks were complemented by an increase in political violence especially in the Midlands, South Coast and North Coast regions. But while the IFP and the ANC busied themselves with their territorial competition, the electorate seemed little concerned. What is even more striking, as this chapter will argue, they seemed little aware of what was at stake as their province played its part in the second democratic elections in the history of South Africa.

1 - The wait for the elections, 1995-1996

When it became clear (August 1995) that the local elections in KwaZulu-Natal could not be held at the same time as in the rest of the country,[4] a period of uncertainty of 11 months began and until a few days before the elections were finally held, it was not clear if they would even take place. This period of uncertainty reflected the continuing conflict between the ANC and the IFP, of which issues of local government transformation inevitably became an important part.

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[1] See chapter 2.

[2] The Western Cape province suffered some delays but held its local elections one month before KwaZulu- Natal, in May 1996. For further details, see note 156, chapter 2, p.80.

[3] The local elections were originally scheduled for 1 November 95, then 27 March 96, then 29 May 1996 and finally 26 June.

[4] The Constitution of the Republic of South Africa Second Amendment Act of 1995 gazetted on 20 September 1995 (No. 16690) allowed postponements of elections in parts of the country. See South African Institute of Race Relations, Race Relations Survey, Johannesburg, SAIRR, 1995/96, p.444.

1.1 - The postponements

The demarcation problem[5] had important technical consequences for the holding of the elections. As long as the boundaries were not definitive, there was no possibility of setting up voters' rolls and determining the ward boundaries. Moreover, the confusion over models and demarcation discouraged early and comprehensive registration.

1.1.1 - Voters' registration

In April 1995,[6] the registration rate for the local elections in KwaZulu-Natal was just above 20% in both urban and rural areas. This was lower than in any other province. A leap forward took place during May 1995 with 51.23% of the potential voters (or an estimated 2.4 million people) having registered for the local elections by the end of the month. MEC Miller reported[7] that in the Pietermaritzburg region, 78% registration had been achieved, in the Durban Metro 56.5%, in the urban transitional council areas 58% and in rural areas 46%. Despite the significant increase in registrations, the figures as they stood were not sufficient to label the first local elections democratic and to avoid confusion or incidents at the polling stations.[8] This led to some urgent efforts such as the putting of advertisements in the newspapers in August 1995 calling for people to register, even if at that time, most of the local authorities had still to been notified of their definitive boundaries and people were not clear about the model of local government in rural areas. In those circumstances, elections could not fulfil their democratic functions. In August 1995, when the plan was still to hold local elections in the whole of South Africa on 1 November, it was estimated[9] that only seven "very small" TLCs (Matatiele, Port Edward, Impenjati, Ashburton, Dalton, Wartburg and Gingindlovu) had delimited their ward boundaries and even those had yet to be proclaimed. The NP claimed[10] that 17 TLCs including the Durban metropolitan council still did not have their final outer boundaries and even if the ANC's Sutcliffe disputed these figures, saying that about 45 TLCs were "three-quarters of the way" to completing the process, this did not reassure doubters.

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[5] See chapter 2, pp.71-72 and pp.75-78.

[6] Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections held on 26 June 1996, Pietermaritzburg, 1996, p.27. See also The Mercury, 03.05.1995.

[7] Business Day, 02.06.1995.

[8] An opinion poll conducted by Project Vote and the National Democratic Institute from 8 to 19 June 1995 (after the closure of the registration period) indicates that 41% of the unregistered voters at that time intended to vote in the upcoming local government elections. See Project Vote / NDI, KwaZulu-Natal: 1996 Local Government Elections, A Public Survey of Voter Attitudes, February 1996.
The National Democratic Institute is a US based non-governmental organisation that conducts non-partisan international programmes to help promote, maintain and strengthen democratic institutions. NDI has worked on voter education an elections-related programmes in South Africa since 1991

[9] The Mercury, 22.08.1995.

[10] The Mercury, 18.08.1995

Another cause of concern was a growing gap between registration in rural, urban and metropolitan areas. Reports showed[11] that at the time when the other provinces were ready to go to the polls, 58.39% of rural voters had registered in KwaZulu-Natal, compared to the 83.45% registered in the Durban metropolitan area and 78.09% in the TLCs.

In order to increase the number of registered voters, the authorities resorted to multiple re-opening of registration. For example, the Local Government Elections Task Team asked for a supplementary registration period in all the local authorities in the country, from 15 to 25 September 1995.[12] A supplementary roll was compiled for new registrations during this period.[13] The forms received after the official closing date of registration (5 June 1995) were included in the new roll. It also contained people who were not placed on the roll due to inadequate information. These provisions were applicable to all transitional authorities, those holding elections on 1 November as well as those exempted areas which had to hold elections before 31 March 1996. Registration was reopened after each postponement in KwaZulu-Natal.

A number of local authorities devised creative plans to maximise the utility of the supplementary registration periods. For example, the East Griqualand JSB sent out its staff to visit farms in the area in order to make sure farmers and farm workers were registered. The Thukela JSB ran supplementary registration ads on Radio Zulu and continued to work with traditional leaders in the area to distribute forms and encourage voter registration.

On election day, even if KwaZulu-Natal could present the acceptable registration rate of 72% (compared to 80% on average in South Africa) a breakdown per type of local authorities revealed a less acceptable rate of 66% in rural areas.[14] The provincial level of registration can be explained by the lack of clarity on essential facts such as the local authorities' boundaries. More particularly in rural areas, the model (inclusion or exclusion of the amaKosi) had not even been agreed upon before the elections. Besides, problems of access to rural areas for political campaigning purposes (cf. below the problem of 'no-go' areas) and technical problems in gaining access to scattered villages, further explain the lower level of registration.

1.1.2 - The three postponements

It became clear in August 1995 that a postponement would be needed in KwaZulu-Natal. The provincial cabinet communicated the idea to the central government,[15] which agreed that

[11] Business Day, 27.10.1995
[12] The Mercury, 24.08.1995
[13] National Democratic Institute, Local Government Elections Newsflash, 1 September 1995.
[14] Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, p.29.
[15] The Mercury, 18.08.1995

the elections in KwaZulu-Natal and the Western Cape could not be held with the rest of the country because of difficulties regarding demarcation of boundaries and other issues.[16]

As early as the end of November 1995, rumours began to circulate that even the new deadline set up for the two provinces was unrealistic. MEC Miller stated that the elections, which were to take place on 27 March 1996, could again be postponed "because of administrative problems". Indeed, the pace of preparation was very slow.[17] To quote one example, the ward demarcation was proclaimed for the local councils of the metropolitan area only in the middle of March 1996.[18] The voters' roll then had to be split into the 164 wards and only then the canvassing for the nomination of candidates could proceed.

During this period of uncertainty as to whether local elections would be able to take place on time (and even if they would happen at all) the headquarters of the ANC threatened several times to by-pass the provincial government if it was unable to respect the deadlines. The ANC took a very strong stand, warning[19] that legislation allowed the Provincial Affairs and Constitutional Development Minister to abolish transitional councils if elections could not be held by March 1996, threatening the provincial government to involve "higher tiers" in the matter.[20] Jeffery[21] reports the words of the ANC's chief whip, Arnold Stofile who stated on 18 August 1995 that if the elections had not been held by the deadline "it would demonstrate that the areas concerned had neither the capacity nor the will to hold elections" and that resort to central government intervention was necessary and legitimate. The KwaZulu-Natal ANC branch joined the ANC national headquarters, stating that "if Mr Miller and the IFP are not competent to run the elections, we will argue that the national government come here and run them."[22] Clearly, the capacity to hold local government elections in time had become part of the on-going conflict between the ANC central government and the IFP provincial government.

The second postponement was announced by Provincial Affairs Minister Roelf Meyer at the end of November 1995.[23] It was only on 7 December that the new date was announced (29 May 1996) which gave only two more months to finish the preparations. This move was strongly criticised by the ANC in KwaZulu-Natal, further illustrating the level of political tension in the province. Sutcliffe - at the time of the announcement the ANC's national council

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[16] Jeffery A., The Natal Story, 16 years of Conflict, Johannesburg, South African Institute of Race Relations, 1997, p.546.
[17] The problems are described in chapter 2, pp.70-78.
[18] The Mercury, 15.03.1996
[19] The Mercury, 18.08.1995
[20] The Local Government Transition Act Amendment Act of 1995, gazetted on 20 September 1995 (No. 16692) specified that all the powers vested in the MEC would be transferred to the Minister of Provincial Affairs and Constitutional Development if the elections were not held before 31 March 1996. See South African Institute of Race Relations, Race Relations Survey, 1995/96, p.445.
[21] Jeffery, The Natal Story, p.546.
[22] The Mercury, 27.11.1995
[23] Business Day, 27.11.1995

supported the new date - stated that the party in KwaZulu-Natal had not been consulted and that the NP Minister of Provincial Affairs was only asking the advice of the IFP and the NP.[24]

The last postponement was initiated by a memorandum from ANC provincial leader Jacob Zuma to Minister Chris Fismer[25] in April 1996, casting doubts over whether the province would have resolved problems including the security situation and irregularities in voters' rolls, by the deadline. He stated that his party had been prevented from campaigning in areas such as Impendle in the Midlands and Nongoma in Zululand. The justification for delay had by now shifted to concerns about security[26] rather than technical grounds. After having more or less reached a consensus over the model of rural local government (except on the status of amaKosi), on the delimitation of local authorities' boundaries, after having completed the voters' roll and arrived at an acceptable level of registration, the main problem was one of political intolerance. Jacob Zuma mentioned the issues of 'no-go' areas (cf. annexe XI) and security in the ANC's memorandum. He suggested that the conditions for an ANC victory had not improved and might have even worsened. In some ANC strongholds like Danganya and Umgababa, the party claimed that over 80% of voters had been excluded from the roll. In rural areas, the ANC's concern was that traditional leaders and the "reactionary JSBs" controlled all aspects of election preparations. The ANC was adamant that there were massive irregularities in the voters' rolls and cited Ulundi as an example of fraud.[27] Zuma's conclusion[28] was that "the ANC currently does not see 29 May 1996 as a realistic target which could be met". MEC Miller together with the NP, DP and IFP opposed the ANC proposals to postpone the elections. He argued that the delay would cost the province hundreds of thousands of rands[29] and added that:

> *To postpone the elections had nothing to do with the state of the administrative or logistical arrangements for which my department is responsible, but everything to do with political opportunism.*[30]

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[24] Business Day, 08.12.1995

[25] At the time Minister of Provincial Affairs and Constitutional Development.

[26] Tension increased in the first half of 1996. The Human Rights Committee reports 29 politically motivated deaths in the province in February 1996, 48 in March and 39 in April 1996. See Human Rights Committee of South Africa, Human Rights Review 1996, Johannesburg, HRC, 1997, p.41.

[27] Alleged irregularities such as registration of voters from outside the areas, 'packing' of addresses with as many voters as possible and registration of voters on vacant sites are reported in Jeffery, The Natal Story, p.548.

[28] Mail and Guardian, 12-18.04.1996

[29] According to The Mercury, 16.04.1996, a memorandum released by MEC Miller stated that the R30 million requested from central government for the elections "would be totally inadequate". Miller said to the legislature (Business Day, 30.05.1996) that each new registered voter during the latest four-day phase of the registration period cost R1,000 and that "now the taxpayer had to fork out an extra R21 million for an exercise that was really not necessary".

[30] Department of Local Government and Housing, Budget Speech delivered by the MEC for Local Government and Housing, Mr P. M. Miller, in the KwaZulu-Natal Parliament, 4 June 1996, p.6.

Accusations were levelled against the ANC, implying that the move was directed at gaining time for further registrations[31] Even President Mandela rejected the idea of a new delay at first but it was finally approved by the Presidential Task Group.

Amid the chaos created by the several postponements and the uncertainties about the boundaries in urban areas and about the model in rural areas, candidates had to campaign, canvass and present their agendas for local government.

1.2 - The local election campaign

One of the most striking features of these local elections was the role that political parties and national politics played. The 1996 elections, although they were not the first local elections featuring political parties, represented a turning point in the status of local government. Local government definitively entered the South African national political system and in February 1997, the new Constitution would give the municipalities an institutional recognition, calling them a "sphere" of government.

1.2.1 - The issues dealt with in the campaign

Most of the issues dealt with during the campaign had nothing to do with the traditional role of local government. All parties campaigned on three national themes: crime, unemployment and peace. For example, the IFP manifesto mentioned the party's 12 point-plan to stop crime[32], put forward ideas to promote job creation and presented a chapter on "laying the foundations for peace and stability." If the IFP and to a certain extent the DP[33] could justify the presence of national issues in their campaign by the fact that their objective was to devolve as much power as possible to local government, the other parties campaigned as if they were rehearsing the 1999 elections. The ANC recycled old campaign slogans, claiming that votes for the ANC would be votes "for peace, democracy and development".[34] Local government received hardly a mention, while Mandela's photograph was on every pamphlet, leaflet and poster. The NP called for "Peace again" with a reminder that it had just left the Government of National Unity in order to let the ANC "take full responsibility for their mistakes". The call

[31] A letter to the editor (Business Day, 16.04.1996) asks "why were the ANC objections not raised more forcefully in January when the rolls were open for inspection? ...the impression is that, having failed to do its homework, the ANC region is calling on big brother-central government to bail it out". The Business Day journalist Farouk Chothia, in the same issue, quotes "IFP sources saying the ANC is running scared. 'An independent opinion poll conducted for us shows that we have had 11% growth in the province since the general elections.'"

[32] See annexe XII.

[33] See in annexe XIII, a DP advert in the newspaper just before the elections. Its object is clearly to "stand up against the ANC".

[34] See annexe XIV.

was to vote NP so that De Klerk could forge "a strong political movement which can take over the government again".[35]

Most of the slogans had nothing to do with local issues but everything to do with the scoring of political points at national or provincial level. Some declarations by political leaders showed that local government was seen as a pawn in a wider political game. As Johnson puts it:

> *The contest was less about the question of who should run this or that municipal council - the ostensible purpose of the exercise - than about which party was the legitimate master of the province.*[36]

For the two 'black parties' the elections were significant because of the uncertainty over the 1994 election results. If the IFP were to lose a significant number of councils, its legitimacy to rule over the province would have fallen into question. Business Day[37] reported words from Minister Buthelezi calling the local elections "the battle for KwaZulu-Natal" and stating that an overwhelming victory of the IFP would be "the door through which we can secure the autonomy of our province and the survival of the Zulu nation". He continued by warning that "if we fail, the entire cause of freedom, democracy and pluralism in South Africa will fail". He declared[38] again that the poll will determine once and for all, the "political who's who" of the province. The IFP launched its campaign for the local elections on 31 March 1996,[39] claiming that communists were behind the central government's "mad drive to totalitarism" and that the onus was on the IFP to "save freedom and democracy" in South Africa. The local election manifesto of Anthony Grinker, an IFP official and a candidate for the metropolitan council was clear and typical of others in his party: "The IFP is the only party able to stop the ANC's march to a one party socialist state".[40] The local polls became an electoral test of satisfaction after two years of ANC power.

The national dimension of the elections was confirmed by Greg Crumbok, DP campaign co-ordinator:[41] "there is an interest in the local election poll but it is only at the political level, it is not about real issues or policies. It is only a game between the two big parties." Wessel Nel's explanation[42] was that during the previous local elections, only ward councillors were elected. It was the first time that people voted directly for a political party (PR system) at local level and this explained the difficulty of making a distinction between local and national issues.

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[35] See annexe XV.
[36] Johnson R. W., 'Understanding the Elections', KwaZulu-Natal Briefing, No. 3, August 1996, p.11.
[37] Business Day, 13.11.1995.
[38] Business Day, 21.05.1996.
[39] Business Day, 01.04.1996.
[40] See annexe XII bis.
[41] Interview with Greg Crumbok, DP Campaign Co-ordinator, Pietermaritzburg, 03.06.1996.
[42] Interview with Wessel Nel, DP Member of the Provincial Parliament, Pietermaritzburg, 03.06.1996.

But the fact that political parties wholeheartedly entered the local arena in 1995/96 was not sufficient to help the KwaZulu-Natal voters in getting interested in the campaign or turning out in great numbers during election day. The turn out was on average 47% of the registered voters in the metropolitan area (with a registration percentage of 85%), 45.4% in the TLCs (with a registration percentage of 87.5%) and 44.9% in the rural areas (with a registration percentage of 66.8%).[43] In the provinces which voted in 1995 and which did not suffer from violence, political bickering and uncertainty about the elections, the electorate had seemed as apathetic. Tony Leon said "notwithstanding that more than R42 million has been spent on voter education and that 25 million pamphlets were distributed in 11 languages, a huge swathe of voters appears switched off 12 days before the elections."[44] In the rest of South Africa, the average turnout of the 1 November 1995 elections was 48.7% of registered voters with a registration percentage of 75%.[45] KwaZulu-Natal is a very specific province in terms of political dynamics and one could have expected more involvement from voters because of the real political competition which took place. However, local elections have always been considered as the "less important polls", a vote which paradoxically does not have a real influence on the lives of the South Africans. One hypothesis which could explain the weak turn out in all the provinces, including KwaZulu-Natal, is the lack of popular interest for this kind of poll. Seeing that the power to make policies had always belonged to the national level, and local councillors were considered as implementers without real capacity of decisions, why should voters take an interest in their elections?

1.2.2 - The attitude of the electorate

An election poll conducted before the 1995 elections by Marketing and Media research and Markinor for Independent Newspapers[46] found that while nine out of ten South African voters went to the polls in the 1994 general election, only six out of ten voters declared that they would queue up on 1 November 1995. In KwaZulu-Natal, to the apathy observed in the other provinces, one has to add problems such as the difficulty of campaigning in a chaotic environment where even the date of the polls keeps changing, and the weaknesses of the voter education campaigns.

1.2.2.1 - Voters' knowledge of the parties' programmes

[43] See Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, pp.103, 104 and 106.
[44] Business Day, 20.10.1995.
[45] Gotz G., 'Local elections 1995', Indicator SA, Quarterly Report, Vol. 13 (1), Summer 1995, p.23. See also South African Institute of Race Relations, Race Relations Survey, 1995/96, p.455.
[46] The Mercury, 30.10.1995.

It appears that nationally, many voters did not know the candidates or their policy platforms, implying that where voting did happen, it was likely to be along party lines.[47] According to Sabela and Reddy:

> *It was generally accepted that the resources, finance and organisational skills of the different political parties also influenced the results* [of the 1995/6 elections]. *In the April 1994 elections, all the political parties received substantial funding from the taxpayer through the Independent Electoral Commission. Consequently, this enabled them to launch massive advertising campaigns, hire staff and offices and, generally, maintain a high profile. The local government elections were, however, organised by the nine provincial governments, none of which had the resources to subsidise the costs of political campaigning.*[48]

Whether it was due to a lack of organisation, financial capacity or simply because parties thought they could rely on their national image, very little time was dedicated to explaining the political programmes of parties to citizens. A few pamphlets were distributed, some candidates visited potential voters during the campaign but in general, the content of the information was poor.

Grinker[49] lists the different means of communication used by the IFP during its campaign: "door-to-door visits, pamphlets (air dropped in no-go areas), road shows, ward meetings". The DP[50] chose to organise two tours of the province for national leader Tony Leon and put the emphasis on ward meetings. Most parties would defend the work of their politicians stating that it is people's apathy which explains their low interest: "people don't care really about this election and they deserve the government they have."[51]

By contrast, in rural areas politicians were not accused of absenteeism but of manipulating the electorate. Political parties would claim to do voter education but in fact were campaigning, telling people that they had to vote for one special party instead of explaining to them that they had the choice.[52].

1.2.2.2 - Voters' knowledge of local government

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[47] Business Day, 31.10.1995.

[48] Sabela T., Reddy P. S., 'The philosophy of local government in developing countries with particular reference to South Africa', in Reddy P. S. (ed.), Readings in Local Government Management and Development. A Southern African Perspective, Cape Town, Juta & Co. Ltd, 1996, p.13.

[49] Interview with Anthony Grinker, deputy local government co-ordinator for the IFP, Durban, 29.05.1996.

[50] Interview with Greg Crumbok, DP Campaign Co-ordinator, Pietermaritzburg, 03.06.1996.

[51] DP official who wished to remain anonymous.

[52] Interview with Sduduzo Simelane, Head of the Information and Communication Department, Regional Consultative Forum on Rural Development, Durban, 04.06.1996.

If the citizens were not really informed about why they should vote for one party instead of another, did they have at least any idea on what local government was about?

Some efforts were made to inform people about the coming elections More than 5 million voter education booklets had been distributed countrywide through non-governmental organisations (NGOs) and churches.[53] In KwaZulu-Natal, alternative education initiatives were developed, such as community workshops and roadshows. The result was that in the province:[54]

- In rural areas, 21,110 workshops were conducted by NGOs, Community Based Organisations (CBOs)[55], and community based trainers. These reached an estimated 713,440 people;
- In TLCs, 5,530 workshops were held by independent individual community trainers. These reached 185,000 people.

In addition, information campaigns were initiated by the JSBs and the Durban metro. For example, a Radio Vote/Radio Vota station was launched by the Communication Department of the Metropolitan and Central councils. The radio broadcasted in English and Zulu until 2 July, and focused on the local elections and voter education in the Durban area.

But if one goes beyond the numbers, the problem was that the information campaign only focused on the "how" (how to cast the ballot, where to go, when to vote)[56] and not on the "why". The success of the "voter education" campaign was measured by the percentage of people who knew about the elections. This is shown in the survey by Marketing and Media Research and Markinor for Independent Newspapers.[57] It suggests that "the voter education projects have been successful, with 96% of the country's adults claiming they knew about the coming elections". It is debatable however whether this is an appropriate criterion of success.

According to a poll held in February 1996[58] most of the informants believed that local government could make a difference in their lives. However, voters' knowledge of local elections and local government remained low and few had contacts or communication with

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[53] Business Day, 26.10.1995.

[54] Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, pp.37 and 41.

[55] Swilling defines CBOs as "geographically defined, usually membership-based organisations. They take many different forms, from highly developed institutions with constitutions and formal structures, to loosely assembled formations that are held together by individuals or cultural habits. Some assist members with savings, burials, cultural activities, religious support and also specific developmental objectives." See Swilling M., 'Building democratic local urban governance in Southern Africa', in Swilling M. (ed.), Governing Africa's Cities, Johannesburg, Witwatersrand University Press, 1997, p.225.

[56] It is true though that because of the several postponements in KwaZulu-Natal, much time had to be spent on the question of explaining the changes of dates.

[57] The Mercury, 30.10.1995. See also the nature of the message conveyed nationally for the 1995 local elections in annexe XVI.

[58] Project Vote / National Democratic Institute, KwaZulu-Natal: 1996 Local Government Elections, p.4.

local government officials. These shortcomings are illustrated by the following findings of the poll (February 1996) which is compared with a similar one held in June 1995:

- Among blacks and Indians, 50% answered "nothing" in June 1995 when asked about their knowledge of local government and local elections. The percentage had decreased to 35% in February 1996;
- Few had heard or seen anything recently about the appointed Mayor or councillors, either in June 1995 or in February 1996 (respectively 83% and 77%).[59]

In rural areas, the situation appeared specially alarming. Graeme Gotz, researcher at the Centre for Policy Studies, stated that people were unclear about what local authorities had to offer which central or provincial government could not.[60] This feeling was confirmed during a workshop dedicated to rural KwaZulu-Natal electoral preparedness[61] and held in Durban just before the elections. The rural persons present at the conference[62] understood that they were going to vote but they didn't know what local government was and did not realise that they had to vote for a PR candidate:

> *For the people, the regional council level is equal to the provincial level. ... They can't usually make the difference between the different levels and don't know what to expect from each of them... Usually the reaction towards the elections is 'we voted in 1994, what is the use of it now?*[63]

These statements were confirmed by a Research Surveys research conducted in May 1996[64] in small towns and rural areas in KwaZulu-Natal and the Eastern Cape. Almost 100% of the informants were aware of the elections but 66% did not have a clear idea of what local government structures were.[65]

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[59] This was confirmed by three surveys done in four provinces by the Community Agency for Social Enquiry (C.A.S.E), which found that only 51% of all respondents knew some of the names of their local councillors. (Quoted in CASE, The End of the Beginning... An Evaluation of the November 1995 South African Local Government Elections, Johannesburg, Community Elections Evaluation Group, July 1996, p.4).

[60] Business Day, 31.10.1995. The confusion about the roles and responsibilities of the different tiers of government is illustrated by the findings of the CASE surveys: 43% of the respondents thought that national government was responsible for local rubbish collection or did not know; 47% thought that national government was responsible for local street lighting or did not know. (CASE, The End of the Beginning, p.4).

[61] Workshop organised by the Regional Consultative Forum and the International Foundation for Election Systems (IFES), KwaZulu-Natal Electoral Preparedness. (Royal Hotel, Durban, 31 May 1996).

[62] Most of them were members of an NGO called the Regional Consultative Forum and all of them were involved in community development work.

[63] Extracts from interventions during the workshop on KwaZulu-Natal Electoral Preparedness.

[64] Quoted in Gotz G., Buying in, Staying out: The Politics of Registration for South Africa's First Democratic Local Government Elections, Johannesburg, Centre for Policy Studies, Transition Series, Research Report No. 42, October 1995, p.38. The research is part of the Project Kissinger of Research Surveys.

[65] This lack of knowledge was not confined to rural areas. The same survey found out that 27% of the African metropolitan residents in Durban were thinking that the elections were for regional government.

The low level of awareness of parties' programmes and of the nature of local government can be explained by technicalities such as the difficulty of reaching potential voters, especially in rural areas and by the particularly difficult context of the province, which saw authorities spending much time on advertising the new dates of the elections. But political tension was another factor preventing the free access to voters. 'No-go' areas were characteristic of geopolitics in KwaZulu-Natal in 1996.

1.3 - The violence

The last important feature of the waiting period before the elections in KwaZulu-Natal is the increase in the political tension and the violence.[66] What made the free choice of the voters really difficult, was not only the lack of knowledge of the candidates, of the parties' programmes and of what local government was really about, but also the intimidation during the months before the elections (even if the level of violence did not reach that which existed before the April 1994 elections).[67] If the election day was remarkably calm, this did not prove that political tolerance had increased. The reason could have also been that parties had succeeded in establishing 'fiefdoms' that is areas they controlled and where political competition is forbidden[68]

1.3.1 - Political tension

Claude mentions[69] the "atmosphere of fear and tension" prevailing during the 1996 campaign: "pollsters have found fear levels even higher than in 1994. It has been quite impossible for them to conduct interviews in KwaMashu for example." This tension translated into low turnouts in certain areas. In Ugu regional council (lower South Coast), the figure was 37%[70] and Johnson reports that many observers:

> *... put it down to the continuing tension in this strife-torn area following events such as the Shobashobane massacre. In African communities it is common for voters ... to march to the polling station in like-minded (and*

[66] For an account of intimidation and level of tolerance during the 1994 elections in KwaZulu-Natal, see Johnson R. W., Schlemmer L. (eds.), Launching Democracy in South Africa, The First Open Election, April 1994, New Haven and London, Yale University Press, 1996, pp.274-300 and pp.336-348.
[67] 52 dead in June 1996 compared to the 338 in April 1994 according to the Human Rights Committee, Human Rights Review 1996, p.43.
[68] See Mail and Guardian, 14-20.06.96 and annexe XI. The article which accompanies the map ('Province that's one big no-go area') mentions the volatile situation in Wembezi (Estcourt township) where "three of the township's six sections are no-go areas".
[69] Claude N., 'The parties and the campaigns', in KwaZulu-Natal Briefing, No. 2, May 1996, p.7.
[70] Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, p.104.

thus politically identifiable) groups ... Not surprisingly, many decided that it was the better part of wisdom not to risk such a trek to the polls.[71]

The tensions generated by party competition, intolerance and intimidation, manifested itself in several lethal incidents.

May 1996 saw the beginning of aggressive campaigning by both the IFP and ANC in anticipation of local government elections... Gatherings which were addressed by President Mandela were either fired upon or disrupted by groups of alleged IFP supporters.[72]

Two important incidents in the run-up of the elections spread fear that the increase in political violence would run out of control. In the first, one of the wives of King Goodwill Zwelithini was attacked at her palace in KwaMashu on 25 April 1996. A cousin of the King was abducted from the royal residence at the time of the attack and killed thereafter. In May, a protest march was organised by the IFP-aligned National Hostel Residents' Association through Durban in protest against the ban on carrying traditional weapons in public. This gave rise to a gun battle in the streets injuring at least nine people.[73]

Apart from these high profile incidents, a number of other violent attacks occurred throughout KwaZulu-Natal in localised areas of tension.[74] Political meetings were disrupted and activists from both the IFP and the ANC were murdered during these disputes.

Wembezi (part of the Estcourt TLC), was a particularly tense area. In February 1996[75] an IFP meeting was disrupted there by ANC supporters in Nkwezela section, while the IFP was trying to launch an election campaign in which they were going to elect a candidate. According to the IFP, they had two successful meetings in C-section and Mahashini (both IFP) but problems arose in Nkwezela which was a contested section. A few months later, in April 1996,[76] an IFP supporting candidate (Induna Malan Dubazane) was killed in town by alleged ANC supporters outside the IFP office. According to the ANC, the Induna was a well-known member of the IFP who, on numerous occasions, was involved in intimidating and attacking ANC supporters. In fact, the whole of the Midlands was a trouble spot. At the end of May 1996, Mr Mandlezizwe Mbanjwa, an ANC candidate in the local government elections and the organisation's Midlands chairman was found shot dead in St Charles[77] (Midlands). At the end of June, Mr Skotheni Hlela, chairman of the ANC in Sharp township outside Bulwer was

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[71] Johnson R. W, 'Understanding the Elections', p.12.
[72] Human Rights Committee of South Africa, Special Report: KwaZulu-Natal, 1995 - Another Year of Living Dangerously, Johannesburg, HRC, 1996, p.2.
[73] About these two incidents, see Jeffery, The Natal Story, p.525 and p.573.
[74] As Johnston notes in his chapter 'The political world of KwaZulu-Natal' (in Johnson, Schlemmer (eds.), Launching Democracy, p.177) "much of the research conducted into the violence in KwaZulu-Natal suggests the importance of localised conflicts."
[75] Human Rights Committee of South Africa, Monthly Report on KwaZulu-Natal, Durban, HRC, February 1996, p.3.
[76] Human Rights Committee of South Africa, Monthly report on KwaZulu-Natal, April 1996, p.2.
[77] Jeffery, The Natal Story, p.575.

gunned down.[78] In April 1996, Mr Damasius Khumalo, an IFP candidate in Impendle was shot dead. In the same month, attempts were made to kill another IFP candidate in Pongola.[79] At the end of June 1996, on the eve of the local elections, 3 IFP supporters were killed near Donnybrook. On the same day, the chairman of an IFP branch in Mandeni was killed.[80]

1.3.2 - 'No-go' areas

According to the IFP, the violence in 1995 and 1996 was caused by the ANC trying to assert an overarching hegemony over the province.[81] According to the ANC, the blame has to be put on the denial of political freedom in IFP-dominated areas. Indeed, politics in the province is very territorialised. What Friedman writes[82] in the context of the 1994 elections can be applied to the 1996 polls:

> *Political conflicts from the mid-1980s created a pattern in which parties gained physical control of areas, after which all residents were, merely by virtue of living there, assumed to be supporters of the dominant party. Rivals simply did not operate in the area.*

Certain areas are said to be IFP or ANC "strongholds" and everybody knows that the presence of any other party is prohibited in these places. They are called 'no-go' areas and according to the security forces (which combined the ANC's and IFP's claims), there were 82 of them in 1996.[83]

Every political party claimed that their candidates had been restricted from campaigning in certain areas. Although, the DP and the NP claimed that their candidates had suffered from intimidation in black areas (for example the DP in Edendale - part of the Pietermaritzburg /Msunduzi TLC[84] - and the NP in Steadville and eZakheni - Ladysmith/Emnambithi TLC[85]), the bulk of the claims about intimidation were made by the ANC and the IFP.[86]

The IFP's provincial campaign co-ordinator Senzo Mfayela claimed[87] that his organisation would not be contesting the elections in certain local authorities in the KwaZulu-Natal Midlands such as Richmond[88] because the IFP candidates feared for their lives. MEC Miller

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[78] Ibid., p.579.
[79] Ibid., p.652.
[80] Ibid., p.658.
[81] Ibid., p.658.
[82] Friedman S., Stack L., 'The magic moment. The 1994 elections', in Friedman S., Atkinson D. (eds.), The Small Miracle, South African Review 7, South Africa's Negotiated Settlement, Johannesburg, Ravan Press, 1994, p.301.
[83] Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, p.57.
[84] Interview with Greg Crumbok, DP Campaign co-ordinator, Pietermaritzburg, 03.06.1996.
[85] Interview with cllr R. Niemand, NP ward councillor in the Ladysmith/Emnambithi TLC, Ladysmith, 22.08.1997.
[86] The reason is that the IFP and the ANC were the only parties able to compete for the electorate of the townships, whereas the DP was still seen as a "white party". The same is largely true for the NP.
[87] The Mercury, 29.03.1996.
[88] The IFP had an established presence in Richmond during the 1980s. A purge of the party was initiated by ANC leader Sifiso Nkabinde early in 1990 (The Mercury, 23.07.1997). In a newspaper article, A.

stated[89] that "the IFP did not have access to vast areas of the province including Clermont, Kwadebeka, Chesterville, Lamontville, part of Umlazi and KwaMashu, Edendale and Inanda".

On the other hand, the ANC claimed that the rural areas were one big no-go area for its candidates. According to the party,[90] the amaKosi used their powers to keep the ANC out of the tribal lands.[91] It found itself unable to campaign or organise effectively within rural communities in the run-up to the local polls. The ANC manifesto for the 1996 elections stated that "we have the right to vote: the ANC has resisted and will continue to resist efforts to limit this right in tribal areas."[92] The campaign manager of the ANC specified that:

> *In the rural areas there is a problem of free and fair activities because the chiefs are able to block the meetings of the ANC. We had the report and the minutes of a meeting which recently took place in one regional council where a senior Chief addressed the assembly saying that they should not give a chance to the ANC to campaign in the region.*[93]

Certain urban areas were also said to be closed to ANC campaigning. The campaign manager of the ANC continued by stating that:

> *The ANC is the party that has put most candidates for the local elections, contesting 90% of the 61 TLCs. The ten other percent cover TLCs where there were problems of demarcation of boundaries and where "our people" were left out of the boundaries and the areas where there is a high risk for ANC candidates. Those areas are Ulundi and KwaNongoma, the latter being less dangerous than Ulundi but still difficult because of the position of the traditional chiefs.* [94]

It is of course difficult to distinguish real incidences of intimidation from excuses for an expected poor showing. But on the five towns where local election did not take place in June 1996 because the seats were unopposed, at least three (Ulundi, Nongoma and Richmond) are well-known no-go areas.

Konigkramer (the treasurer of the IFP) states that "InKosi Zwandile Majozi was driven from Ndaleni after there had been 12 attacks made on his life. The IFP was driven out of Ndaleni, KwaMagoda and Sizomomeni by gangs of ANC youth who murdered inKosi Majozi's supporters. During 1992 the ANC targeted the area of Gengeshe and murdered IFP leaders (The Mercury, 31.07.1997).

[89] The Mercury, 16.04.1996.

[90] Jeffery, The Natal Story, p.522

[91] The Sunday Tribune (07.05.1995) reports that Sutcliffe had released details of two incidents in which tribal chiefs blocked registration enumerators from registering voters. One of them was Chief Mkhize of the densely populated Embo area. He said that the Joint Services Board which was running the registration process in most of the North Coast areas had been routing the process through chiefs and employing only Inkatha Freedom Party supporters as enumerators. The ANC claimed it had been blocked from holding a meeting at Taylors Halt outside Pietermaritzburg. David Ntombela, IFP leader said he excepted the ANC to "do as we do - apply to the chief for permission".

[92] See annexe XIV.

[93] Telephonic interview with Sipho Gcabashe, Campaign manager for the ANC, 06.06.1996.

[94] Ibid.

Table No. 2: Composition of the unopposed councils in KwaZulu-Natal TLCs[95]

Name of the TLCs	Composition of the council
Gingindlovu	5 NP and 2 IFP
New Hanover	7 ratepayers
Ulundi	13 IFP
Nongoma	7 IFP
Richmond	11 ANC and 2 independent

On 26 June 1996, after months of uncertainty, political arguments and violence, elections were held but the question remains whether they were free and fair:

> *Substantial parts of the province remained no-go areas for either the ANC or the IFP. Each of these no-go areas meant that free political activity was not possible with the dominant party denying the right to other parties to campaign. The political parties accepted the status quo of these no-go areas and in most part did not attempt to challenge the situation. No-go areas were entrenched by the elections.*[96]

2 - The Elections in KwaZulu-Natal

Election day was peaceful by comparison with the agitation of the past months. Thanks to many initiatives (emanating from security forces, church leaders and politicians) people were able to vote in a calm atmosphere.

The results confirmed the 'two realities' of the province.[97] On one side, there was a KwaZulu-Natal dominated by the ANC, a province "modern" and urban. On the other, the IFP KwaZulu- Natal was rural and more "traditional". But it should be emphasised that the elections were not so much the end of a process of liberation, rather one of the founding elements of the process of transformation. The elections put in place men and women of a new type, politicians who had to imagine a way of working together at the local level.

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[95] Table based on the results announced in Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, pp.105, 106 and 107.

[96] Human Rights Committee of South Africa, Human Rights Review 1996, p.38.

[97] For an analysis see Johnston and Johnson, 'The local elections in KwaZulu-Natal: 26 June 1996', African Affairs, pp.377-398; Johnston A., 'IFP Enigma', in Democracy in Action, Vol. 8 (3), 31 May 1994, pp.5-6; Johnston A., 'Zulu dawn: the election result in KwaZulu-Natal', in Indicator South Africa, Vol. 11 (3), Winter 1994, pp.23-26.

2.1 - Election day, 26 June 1996

2.1.1- The candidates

In the following chapters we are going to come back on the personality of KwaZulu-Natal local councillors. But it is important at this stage to know more about the political parties' candidates for the first democratic local elections.

According to Greg Crumbok and Wessel Nel[98] the profile of DP candidates was high. All of them were "educated and have succeeded in their lives". They were "equipped to occupy an elected post". Indeed, this description corresponds to the image of the DP councillor, highly efficient when it comes to running his/her professional, private and public lives and highly articulate and vociferous when it comes to council debates. Observation of council meetings in their first year, confirms the DP's self-image. Most DP councillors prepare well before coming to meetings and most of the time, they can rely on their specific expertise (building industry, accountancy, law) to make informed judgements.[99] Whereas the two black parties suffered a major "brain-drain" when they had to fill national and provincial positions,[100] the DP was able at local level to put up "quality candidates" who could have also filled higher posts. The Mercury reported that[101] Durban city councillor Mark Lowe was one of the ten candidates to fill a vacant seat in the National Assembly and that another DP local councillor was in the race (Brian S. J. Naidoo).[102] The difference in socio-economic background and preparedness for council work between the traditionally white parties and their predominantly black counterparts turned out to be larger than the DP anticipated. This is reflected in a statement by Crumbok:

> *The new councillors will only need procedural training for their job but there will be no need for technical training or explaining what is a council because they should know it already. They should know how to set up policies.*[103]

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[98] Interview with Wessel Nel, Pietermaritzburg, 03.06.1996.

[99] This judgement is based on attendance by the researcher at council and executive committee meetings throughout the province.

[100] An article (Business Day, 16.05.1995, quoted in Jeffery, The Natal Story, p.627) depicts a gloomy picture of the ANC candidates to the local elections. It was stated that the party lacked compelling leadership in the province because some of its key leaders had died, while others had become involved in national politics.

[101] The Mercury, 14.11.1997.

[102] The fact that DP councillors are put forward by their party to occupy National Assembly seats is also true of the NP. For example, Johnny de Wet who was the mayor of Margate before the elections and since June 1996, chairman of the executive committee, became at the beginning of June 1997 a member of the National Assembly in replacement of a deceased MP. (The Mercury, 04.06.1997). This happened on a much lower scale for the ANC or the IFP. The experience of iLembe exco councillor T. F. Dingila becoming MPP in May 1997 and resigning from the regional council is very unusual. (iLembe regional council, Agenda of the Exco, 05.06.97).

[103] Interview with Crumbok 03.06.1996, Pietermaritzburg.

The DP did not really know the new type of councillor who ran under the IFP and the ANC banners. If the DP councillors are professionals who see their position in council as a civic duty, the candidates of the ANC or IFP are political figures who may have done (or not) "something for their community".

When it comes to the IFP candidates, despite the fact that Grinker[104] emphasised their "professionalism" with a background of being "teachers, business people, often former councillors from the BLAs, Indian councils as well as from the transitional period", the reality is less rosy. According to Aulsebrook[105] the IFP candidates for the 1996 local elections were selected by the party branches at local level (ward candidates as well as PR). Then, it was at a regional level (the IFP regions' boundaries in KwaZulu-Natal did not correspond with the regional councils' ones) that the final selection was made.[106] The criteria for the final accreditation were vague, ranging from "suitability for the post", "being a popular person", "integrity", to "competence" and "representivity of the community". One condition was essential though: the candidates should not have any criminal record. In rural areas, the branches played their role where they existed. In the rest of the rural areas, tribal authorities were tasked with the selection of people. Aulsebrook emphasised the difficulty of presenting educated candidates who at the same time would have time for the council work in rural areas.

The ANC candidates were chosen as follows.[107] At provincial level, an ANC list committee was created, which was a sub-committee of the provincial executive committee of the ANC. It comprised local government expert Sutcliffe as chairman, three provincial executive members, one Women's League, one Youth League, one South African Communist Party (SACP), one South African National Civic Organisation (SANCO) and one Congress of South African Trade Unions (COSATU). In each of the ANC's regions (which like the IFP's do not match the regional councils' boundaries) there was an ANC regional list committee. Ward conferences were organised which were open to the public. People voted for the "best candidate in the ward. The candidate was considered as chosen when he received more than 50% of the votes."[108] As in the IFP, there were no special criteria imposed by the party. Sutcliffe mentioned some problems in the selection process, most of them related to the organisation of the conferences and to candidates not coming from the area they were claiming to represent. There was also a PR conference in each ANC region. Those conferences were more structured and consisted of representatives of ANC branches, Women's League, Youth League, SANCO,

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[104] Interview with Anthony Grinker, deputy local government co-ordinator for the IFP, Durban, 29.05.1996.

[105] Interview with J. Aulsebrook, IFP MPP, Study Group Chair of the Local Government Portfolio Committee of the Provincial Legislature, 28.01.1998 (telephonic interview).

[106] The IFP regional structures tried to be gender sensitive by referring back the lists when they did not have enough women but according to Aulsebrook "it was hard to find women".

[107] Interview with Dr Mike Sutcliffe, ANC MPP and chairman of the Local Government Portfolio at the Provincial Assembly, Durban, 18.08.1997.

[108] Ibid.

SACP, COSATU. The decisions of all the conferences were referred to the Provincial List committee. If it did not accept the conferences' proposals, it would revise them. Then, all the PR lists were revised in order to accommodate women (who made 50% of the candidates). The ANC had only two or three months to organise the ward and the PR lists and Sutcliffe acknowledged that sometimes this was done "in total confusion."

These discussions on campaign, electorate and candidates serve as a background to a description and analysis of the polling day itself.

2.1.2 - What happened on voting day

The voters and the electoral staff confronted two main problems in the province on election day. These were technical problems and incidents of violence. Both had been expected and occurred on a much lower scale than foreseen.

2.1.2.1 - The hiccups

One of the main tasks of the nominated councils during the pre-interim phase was to oversee various responsibilities for the local government elections. These tasks included organising voter registration, making recommendations to the Demarcation Board on ward delimitations, preparing the voters' roll, facilitating the nomination of candidates, appointing election officials, and in general, running the elections in their areas. All these tasks were completed in time and the only problem was the delivery of certain documents to rural areas. Severe problems occurred in two of the seven regional council areas.[109] In Ugu (lower South Coast), voters' rolls were not delivered to five voting stations within the Umzumbe polling district, affecting 23,000 voters.[110] In Zululand, a polling district received ballot papers destined to the uMzinyathi regional council.

But apart from the delays caused at the polling stations because of checking of the voters' details and sometimes lack of acceptable identity documents, the day passed without major technical problems.

When it comes to violence, only a few isolated incidents of intimidation were observed. In KwaDukuza/Stanger, the tension was high between Shakaville (IFP) and the squatter camp of Lindelani (ANC). Voters in Lindelani,[111] sporting signs of political affiliation on them, tried to vote in the IFP zone. The ANC subsequently threatened to take legal action if the elections in

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[109] Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, p.63.

[110] By-elections were held on 20 July 1996.

[111] This settlement should not be confused with the IFP supporting squatter camp of Lindelani on the outskirts of Durban.

ward 10 were not cancelled. They were declared null and void by the Electoral Appeal Tribunal.[112] Another incident was reported in Maqonqo (Table Mountain near Pietermaritzburg) but on the whole, the polling proceeded peacefully and virtually without violence. There were no politically related deaths and the few potential confrontations were defused without incident.[113]

2.1.2.2 - The measures which prevented the violence

The security measures were important. The press[114] carried assurances on the day before the elections that the voters would be protected by South African National Defence Force (SANDF) troops in each of the 4,500 polling stations. Jeffery reports the presence of some 22,000 policemen and 21 companies of the SANDF deployed in the province before, during and after the poll.[115] According to the Human Rights Committee the 2,500 defence force troops deployed in KwaZulu-Natal were supplemented by an additional 17 commando platoons and three citizen force companies for the week of the elections. The total security personnel from the South African Police Services (SAPS) and the SANDF approximated 30,000.[116]

Another reason which explains the lack of incident, is the existence of several institutional channels through which dialogue between parties could be maintained. This clearly played a constructive role. For example, the Multi-Party Election Liaison Committee (MPELC) established in early March 1995, helped to involve the different political parties in any matter concerning the holding of the elections. Thanks to this body, at all stages of the electoral process, all the parties were able to express themselves on the postponements. Another body, the Presidential Task Group (PTG)[117] helped by speeding up the decision-making process and amending regulations when necessary. For instance, a major concern was the fear that the ballot boxes would be tampered with *en route* from polling stations to counting stations. Amendments to the regulations provided the presence of a security force member at the final sealing of the ballot boxes and during the delivery of election material to the returning officer.[118] Senior members of the security forces were present at all the meetings of the PTG and this interaction ensured the permanent liaison with election authorities. The operations centre set up in Natalia Building (the headquarters of the provincial administration

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[112] The Mercury, 30.09.1996.
[113] Business Day, 27.06.1996.
[114] The Mercury, 25.06.1996.
[115] Jeffery, The Natal Story, p.632.
[116] Human Rights Committee of South Africa, Human Rights Review 1996, p.38.
[117] The PTG was appointed by President Mandela on 11 April 1996 to report to him on the possibility of holding free and fair election and on the desirability of a postponement of the elections. After the decision about the postponement was taken, the group continued to meet until the end of June 1996. Cf. Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, pp.55-58.
[118] See amendments to the regulations 62(1) and 63(1) to (4), in Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, p.15.

in Pietermaritzburg) epitomises the efforts of the province to bring all the stakeholders together in order to prevent any incident on polling day. The purpose of this twenty-four hour operations centre was to answer queries from returning officers, co-ordinate actions and process the elections results. The members of the Multi-Party Election Liaison Committee were given separate accommodation to face possible political problems. A security force team of senior representatives from all arms of the SANDF and the SAPS were also accommodated.[119]

Members of the church[120] and business community also got involved in the preparation of the elections by launching a Peace Initiative (Project Ukuthula, meaning 'Peace'). In mid-May 1996, church leaders in the province announced several peace initiatives to ensure that local government elections went ahead peacefully.[121] A Code of Conduct (cf. annexe XVIII) was drafted to govern the behaviour of ANC and IFP members. It was intended to guarantee that both parties would suspend or expel members who engaged in violence.[122]

Lastly, some gestures of good will from alleged 'warlords' before the elections seemed to point to prospects of reconciliation between the ANC and the IFP. Sifiso Nkabinde, at the time ANC MPP and alleged warlord in Richmond made an extraordinary speech in the legislature[123] in which he named six warlords, including himself and called on them to convert into "peacelords". He and David Ntombela from the IFP agreed to visit each other's strongholds to canvass voters in the local government elections. Nkabinde said he would escort Ntombela through the ANC strongholds in Richmond and Edendale to put up IFP local government election posters, while Ntombela would lead him through the IFP strongholds of Elandskop and Taylor's Halt.[124] They indeed appeared together in several occasions, for example planting a 'tree of reconciliation' in Wembezi, the formerly violence-torn township of Estcourt.[125]

Jeffery summarises the situation by writing that:

> *Violence intensified in the run-up of the elections, until tensions were defused to some extent in the month preceding them as a result of peace initiatives launched by both church groups and political leaders.*[126]

But if it is true that efforts were made by political parties, church leaders and the security forces to calm down the situation, it was more the nature of the political violence which

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[119] Ibid., p.62.
[120] See annexe XVII.
[121] For example, KwaZulu-Natal South Coast election candidates met in Port Shepstone to create a platform for peace ahead of the local government elections on the initiative of the director of Practical Ministries, Rev. Danny Chetty. (The Mercury, 05.06.1996).
[122] The Citizen, 01.06.1996.
[123] The Mercury, 31.05.1996.
[124] Jeffery, The Natal Story, p.577.
[125] This event followed a Peace Rally organised by the Estcourt/Wembezi Peace Committee, 17.11.1996. The researcher was present.
[126] Jeffery, The Natal Story, p.545.

explained the relative peacefulness on election day. The Human Rights Committee described the fighting between the ANC and the IFP as results of:

> *... attempts by each party to either 'purge' their area of supporters of the opposing party, or to penetrate territory controlled by the opposing party. The large scale burning of homes of supporters of the opposing party was one such tactic to force these people to flee the area, thereby gaining control of that territory.*[127]

Once control is taken, peace can last until such moment when the competing party decides to launch a branch in the 'no-go' area. The fighting for territory occurred in the months before the elections. The polling day simply entrenched a situation where domination by the IFP and the ANC of certain territories was achieved by violence.

2.2 - The results[128]

The electoral system ensured that political parties would be present in local councils thanks to the PR system, which as described above, was based on a parallel system of proportional representation (40% of councillors) and first-past-the-post-ward candidature (60% of councillors). This ensured elements of representivity in the proportional matching of some council seats with votes cast, and accountability, in the presumed responsiveness of individual councillors to a particular ward. The introduction of PR was a novelty, since before 1995 the system was based on ward representatives.

The competition for the seats was exacting. According to the Department of Local Government and Housing[129] in the province, 587 candidates competed for 164 ward seats in the metropolitan area. In the TLCs, there were 470 seats for 1,202 candidates.

To enable a national and provincial comparison of the parties' performances, it is useful to note briefly the results of the elections held on 1 November 1995 (which excluded KwaZulu-Natal and parts of the Western Cape):[130]

- The ANC won 66.37% of the PR votes. Adding the ward seats, the ANC controlled 61.73% of the 7,381 local government seats. The party dominated 61.2% of the councils nationally.

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[127] Human Rights Committee of South Africa, Special Report: KwaZulu-Natal, 1995, p.5.

[128] The results presented below are based on raw data (tables) gathered from the Provincial Election Task Team in Pietermaritzburg, about each of the 61 local authorities in the province. But in interpreting the results, one has to keep in mind that the very particular way of delimitating the wards (half representing the formerly advantaged and half the disadvantaged communities) had an impact on the results. Thus they are not the 'real' reflection of the electorate's choice.

[129] Department of Local Government and Housing, Report on the KwaZulu-Natal Local Government Elections, p.102.

[130] Johnston A., Spence J. E., 'South Africa's local government elections', Briefing Paper, No. 27, Royal Institute of International Affairs, London, November 1995, p.1. See also South African Institute of Race Relations, Race Relations Survey, 1995/96, pp. 455-457.

- The NP won 16.22% of the PR votes. With the ward seats, the NP controlled in total 15.74% of the local government seats as well as 7% of the councils.

Nationally, the importance of other parties is negligible. The Freedom Front controlled 0.1% of the councils and the CP, DP, IFP and Pan Africanist Congress (PAC) failed to gain control of a single one.[131]

The results of the KwaZulu-Natal polls in June 1996 were very different because there, the ANC was facing a "real contender". The competition was stiff and the results in TLCs and the metropolitan area were uncertain until the last moment. One of the most striking features of the results was the urban/rural division. As Johnston and Johnson noted:

> *In the country at large the ANC derives its overwhelming support from the African poor in the rural areas and is their champion in implicit opposition to the more affluent sections of the population living in the big cities where, inevitably, the ANC is weaker. In KwaZulu-Natal the situation is exactly the opposite.*[132]

2.2.1 - The results: the ANC

2.2.1.1 - The ANC won the urban areas

The ANC's victory in the urban areas can be partly explained by the decision of the Special Electoral Court to exclude traditional areas from the TLCs' boundaries. But when it comes to analysing the results, it is useful to differentiate the urban local authorities according to their size. A distinction was made between the small TLCs (31 TLCs are governed by a seven-seat council), the medium-size TLCs (24 TLCs count between 10 and 19 seats), the big towns (6 TLCs have between 22 to 60 seats in council) and the Durban's councils.

The following table summarises the ANC's results in these different categories. In table No. 3, only the names of the TLCs in which the ANC registered its worse and better results are mentioned. For example in the category "small TLCs", the worst result was 0 seat won and the best was 4 and 5 on a total of 7 seats. This enables us to identify the towns where the party had very bad and very good results and to measure the numerical importance of those towns. The column "percentage" also gives an idea of what is a "good" and a "bad" result according to the category of TLCs, in terms of percentage of seats won.

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[131] Jeffery, The Natal Story, p.546.
[132] Johnston, Johnson, 'The local elections in KwaZulu-Natal: 26 June 1996', p.391.

Table No. 3: ANC's worse (non-shaded) and better (shaded) results in KwaZulu-Natal TLCs

TLCs	Number of ANC councillors	Total number of councillors	Percentage of ANC councillors in those councils
In small urban areas Bergville, Camperdown, Cathkin Park, Creighton, Himeville, Hattingspruit, Impendle, Impenjati, Kranskop, Melmoth, Mtunzini, New Hanover, Nongoma, Lowsburg, Pennington, St Lucia, Underberg, Utrecht, Wartburg, Winterton	0	7	0%
Colenso Dalton Ixopo	5 4 4	7	51-71%
In medium-size TLCs Dannhauser, Empangeni, Eshowe, Inyala, Pongola, Dundee, Estcourt, Hibberdene, Port Shepstone, Scottburgh, Umkomanzi	1 to 5	10 to 19	17.9%
Glencoe, Greytown, Howick, Kokstad, Mandeni, Mooi River, Richmond	7 to 12	10 to 19	67.25%
In big towns Vryheid	1	26	3.8%
Richards Bay	10	30	33.3%
Ladysmith/Emnambithi	22	34	64.7%
Pietermaritzburg/Msunduzi	40	60	666%

The table shows that in most of the small TLCs, the ANC is very weak. In 20 of them, the ANC did not win any seats and as a consequence, is not represented on the council. In only three of them, the party enjoys a single majority (57% or more of the seats). In the medium-size TLCs, the ANC did badly in approximately half (11 in a total of 24 medium-size TLCs) and well in a third of them. In the big towns, except in Vryheid, it did well or very well.

In the Durban metropolitan area, which does not appear in the table, the ANC enjoys an absolute majority in the Inner West, Outer West and Southern sub-structures (cf. annexe VIII) and heavily dominates the two central areas (North Central and South Central), the metropolitan council and the Northern local council. When it came to elect the office bearers in the different councils, the ANC could claim half the seats in the metropolitan executive committee and all the posts of mayor (metropolitan as well as in the sub-structures). The ANC domination is such in Durban that the second biggest party (the NP) occupies only 67 seats compared to 151 for the ANC.

Winning Durban was more than a symbol for the ANC. It was important to win the economic heart of the province, with a budget of more than R4.5 billion - superior to the provincial one (in the hands of the IFP). Thus KwaZulu-Natal found itself in a very peculiar

situation in terms of power relations between the central government, the province and the metropolis. In Cape Town where the National Party controls the metropolitan area and all but one sub-structure, there is an 'opposition' [to the ANC central government] city aligned with an 'opposition' provincial government. In Johannesburg the nationally-dominant ANC controls both Gauteng and the metropolis (including every sub-structure). In Durban a combination of these situations is to be found.

2.2.1.2 - The ANC lost the regional councils

In the rural areas, the ANC received on average 21.16 % of the votes. Its best score was in the iLembe regional council (the rural local authority which surrounds the Durban metropolitan area on its north and south, cf. annexe III) with 32% of the votes and its worst in Zululand (2.2%). Despite the inroads into some parts of the iNdlovu regional council (Vulindlela) and uThukela (Ukhahlamba), the showing of the ANC is still very poor in rural areas. According to the ANC, the reason is that traditional areas as well as farms were no-go areas for them, amaKosi and farmers preventing them from campaigning (cf. above). Another explanation is that the ANC concentrated its efforts on the urban areas. S'bu Ndebele, ANC provincial executive member, denied that his party neglected rural areas. But he suggested that it was more significant to win urban centres: "You can win Babanango, so you will have the right to decide whether donkeys can come into town, or you can win Durban, where you will decide on real delivery issues."[133] This is a worrying statement since the ANC seems to consider that despite the fact that rural areas are in dire need of service delivery, rural local government will not be able to ensure it due to a lack of funds. This implies that elected councils are only significant in urban areas where there is a meaningful budget. [134]

2.2.2 - The results: the IFP

The IFP's fortunes were dramatically opposed to the ANC's.

[133] Mail and Guardian, 19-25.04.1996.

[134] This feeling is echoed by the press. The Sowetan emphasised after the elections that "if by winning the urban areas, the ANC is in charge of a budget of more than R4.5 billion, the IFP in the rural areas is controlling a tiny R78 million." (The Sowetan, 01.06.1996).

2.2.2.1 - *In the urban areas*

Table No. 4: IFP's worse (non shaded) and better (shaded) results in KwaZulu Natal TLCs

TLCs	Number of IFP councillors	Total number of councillors	Percentage of IFP councillors in those councils
In small urban areas Ashburton, Bergville, Camperdown, Cedarville, Colenso, Cool Air, Dalton, Harding, Hattingspruit, Himeville, Impendle, Ixopo, Matatiele, Mtunzini, New Hanover, St Lucia, Underberg, Wartburg, Winterton.	0	7	0%
Melmoth	5	7	71%
Lowsburg	6	7	85%
Nongoma	7	7	100%
In medium-size TLCs Dolphin Coast, Dundee, Glencoe, Empangeni	1 to 3	10 to 19	11.65% (on average)
Eshowe, Darnhauser, Hibberdene, Pongola, Umkomanzi	6 to 11	10 to 19	56.21% (on average)
Ulundi	13	13	100%
In big towns Ladysmith/Emnambithi and Pietermaritzburg/Msunduzi	1	34 and 60	2.3% (on average)
Vryheid	16	26	61.53%

The IFP fared a little better than the ANC in the small towns[135] (small towns being in general more conservative than big ones) but did not succeed in shaking the monopoly of the independent candidates. It reached a 100% score in Nongoma but there, the IFP stood unopposed.

In the bigger TLCs, the IFP results were in general rather bad and the party did not even compete in TLCs such as Greytown and Kokstad. In most of them, it seems that the IFP was expecting poor results, judging by the number of its candidates. But its defeat came as a surprise for the party in Howick, Margate, Mooi River, Mandeni and Paulpietersburg.

In the big TLCs, the results were even worse, with only one seat won in Ladysmith/Emnambithi and Pietermaritzburg/Msunduzi,[136] five in Richards Bay and twelve in Newcastle. The only big urban area to have voted IFP is Vryheid. The party benefited there, from the votes of the white population (in A wards) as well as the black one.

[135] The towns with a seven-seat council

[136] The insistence of the IFP in promoting Ulundi as provincial capital was the IFP's death warrant in the city. See Johnston, Johnson, 'The local elections in KwaZulu-Natal: 26 June 1996', p.390.

In the Durban metropolitan area, despite the fact that the IFP presented candidates in nearly every ward, it did badly in Outer West and South Central because Umlazi and Mpumalanga townships voted massively ANC.[137] In other TMSs, the IFP did not have too many expectations and indeed had little success (in North two councillors, in Inner West one councillor, in South two councillors). Compared with the 1994 elections, the party lost nearly half of its support in Durban, falling from 23 to 12.9 %. What is even worse, is that the three IFP Durban mayors from the pre-interim phase, who stood as ward candidates (Sipho Mlaba, Jerome Mshengu and Joyce Abraham) were defeated..

2.2.2.2 - In the rural areas

The regional councils are the strongholds of the IFP. The party dominates all seven of them because IFP councillors are a majority among :

- The directly elected councillors. In this category of voting, the IFP score ranged from 96% in the Zululand Regional Council to 58% in iNdlovu;
- The politically aligned women's representatives (10% of the total of the councillors in a regional council). Because of the good results of the IFP during the local election, they were in majority drawn from the rank of the IFP (they were chosen in proportion of each party's results).

Besides, the majority of the amaKosi (20% of the rural councillors) are more likely to identify with the IFP than with the ANC.

The only regional council the ANC could have dominated was iNdlovu (based in Pietermaritzburg) because of the large number of TLC representatives on the council. In iNdlovu, the ANC has 105 seats in total (five women representatives, 36 directly elected councillors, and 64 TLCs representatives). The IFP has 82 councillors (nine women, 71 directly elected councillors and two TLC representatives). But the council comprises also 63 traditional leaders[138] which in theory makes a majority for the IFP. At the level of the executive committee, the ANC would also dominate it (12 members) if the IFP (seven members) did not enjoy the quasi-automatic backing of the amaKosi (six councillors).

[137] According to Johnson, "it seems possible that Chief Buthelezi's criticism of COSATU may have cost his party dear in industrial areas where there has been a large overlapping membership between the IFP and COSATU" (Johnson R. W., 'Understanding the Elections', p.15).
[138] For the make up of regional councils in KwaZulu-Natal, see chapter 2, p.84.

2.2.3 The results: the "white parties" (NP, DP)

Table No. 5: NP's worse (non shaded) and better (shaded) results in KwaZulu-Natal TLCs

TLCs	Number of NP councillors	Total number of councillors	Percentage of NP councillors in those councils
In small urban areas Ashburton, Camperdown, Cathkin Park, Creighton, Dalton, Harding, Hattingspruit, Himeville, Impendle, Impenjati, Ixopo, Matatiele, Mtunzini, New Hanover, Nongoma, Underberg, Utrecht, Wartburg, Winterton.	0	7	0%
Gingindlovu	5	7	71%
In medium-size TLCs Dolphin Coast, Eshowe, Hibberdene, Howick, Mandeni, Port Shepstone	1 to 4	10 to 19	12.38%
Scottburgh, Empangeni	6 and 7	13 and 16	44.95%
In big towns Newcastle	7	60	11.66%
Ladysmith/Emnambithi and Pietermaritzburg/Msunduzi Vryheid	7 to 13	26 to 60	25.01%

The NP and DP are the only relevant "white parties" at local level in KwaZulu-Natal. The Freedom Front competed only in big TLCs,[139] where it won no seats at all. The only seats competed and won by the Conservative Party were in Newcastle (four seats).[140]

In small TLCs (seven seats), the NP succeeded in winning more than three seats only in Gingindlovu where it secured five for its representatives. In the bigger towns, the NP did badly. Even in the towns where the NP scored best, it did not achieve a majority (Scottburgh and Empangeni). In the big urban areas, it made its best scores in Ladysmith/Emnambithi, Pietermaritzburg/Msunduzi and Vryheid (20 to 26% of the seats).

It was in the Durban metropolitan area that the NP made the strongest showing. The party won some wards in white conservative areas of Durban (the Bluff, Durban North, Duikerfontein) and in some Indian areas:

> *The Indians of Chatsworth, living in the relative security of belonging to the largest Indian community in the country, felt more able to indulge their penchant for a separate Indian party* [the Minority Front] *while the*

[139] Dolphin Coast, Empangeni, Howick, Ladysmith/Emnambithi, Margate, Port Shepstone, Newcastle and Pietermaritzburg/Msunduzi.

[140] The poor results of the FF and CP came as a surprise. The day before the elections, The Mercury (25.06.1996) predicted that "the battle for Newcastle's white vote will be pitched by the FF and the CP. While the NP, ANC and IFP have fielded candidates in the former white residential areas, it seems almost certain that the majority of voters will chose between the CP and the FF."

Indian population in Phoenix, which lives in the shadow of Inanda's large and turbulent African population, clearly felt more inclined to cling to the skirts of the NP, with its national profile and presence.[141]

But the strong NP presence is more reflected in the proportional than in the ward votes. In Durban South Central, votes directed to MF or DP ward candidates were transferred to the NP on the second ballot. The same happened in the Outer West sub-structure with the transfer of DP votes to the NP. In Inner West and Southern councils, the NP achieved also better results in PR than in wards.

In fact, the NP benefited in the proportional representation vote from two types of transfer:

- Transfers from small parties which seemed to defend the particular interests of certain racial groups (DP, MF[142]) but which are not strongly significant either at provincial or at national level. If people tended to vote for them in wards, they preferred choosing a party that seemed stronger at national level and thus able to defend them more adequately against the ANC hegemony;[143]
- From independents or ratepayers' associations which rarely appeared on the PR list. Before the elections, the NP acknowledged that some discussions were held "with a lot of ratepayers' associations and independent candidates particularly with regard to the role of party politics, but no special deals were made."[144]

The DP did very badly in both the small towns (it competed in only four of them) and the larger ones. Its best results were recorded in Howick (five out of 19 seats), Kokstad (three out of 16 seats) and Pietermaritzburg/Msunduzi (six out of 60 seats). In the metropolitan area, it made an impressive score in Outer West (winning all the eight wards contested) but it enjoys only a handful of seats in the other sub-structures, where no more than 10% of the councillors are DP. The DP's crucial failure was to make no inroads into the black areas.

What can also be noticed, is that the DP made a strong showing in the East Griqualand rural areas.[145] It thus secured three seats of directly elected rural councillors in the iNdlovu regional council. The DP ran second of the "white parties" in rural areas, winning in total five rural seats to the NP's 14.

The most important feature of the election results was the importance of political parties. As we are going to see, the ideal of a municipality run by independent candidates having

[141] Johnston A., Johnson R W., 'The local elections in KwaZulu-Natal: 26 June 1996', p 377-398.
[142] The Minority Front won 21 seats in the whole province and all of them are in the metropolitan area of Durban.
[143] Johnston, Johnson, 'The local elections in KwaZulu-Natal: 26 June 1996', p.388
[144] Notes from Nicholas Claude (research officer for the KwaZulu-Natal monitoring project, Politics Department, UND): meeting with Pieter van Pletsen (NP), NP legislature offices, 23.07.1996.
[145] This is explained by the fact that in East Griqualand, a "typical DP electorate" is present: there is no tribal area in this part of KwaZulu-Natal and the local farmers are of British origin.

nothing to do with politics came conclusively to an end in these local elections. Even in the TLCs where independents have a strong presence, the councillors are politicised.

2.2.4 - Political councillors

As we have seen,[146] party political participation at local level was unknown in the early 1980s.[147] The local government level had been free from direct involvement of political parties until the 1982 municipal elections. The traditional view was that local authorities should function on a non-party political basis. In addition, parties' lack of interest in competing in local elections was also derived from local authorities' lack of autonomy, which derived in turn from the unitary and centralised nature of the South African state. But as the Director of the former Interim Local Government Association Christo Norton points out:

> *... before 1988, most councils were, although not overtly, aligned to a specific political party. The primary process of government on any level is a political process, in other words a process of regulating competition and resolving conflict about public resources.*[148]

2.2.4.1 - The independence of "independent" candidates

Independents are defending the conservative vision of local government free from political parties.[149] The outcome of the 1996 local elections showed that there was still a strong support for them in the small towns of KwaZulu-Natal. Of the 61 TLCs in the province, 20 are controlled by independent councillors or representatives of ratepayers' associations. They also hold the balance of power in ten other TLCs. In total, they won together 27% of the TLCs' seats in the province (against 18% for example for the IFP).

But although most of the TLCs held by independent councillors have a history of non-political involvement during local elections, the phenomenon hides other realities. Govender[150] distinguishes between three types of "independent":

- The ratepayers' associations;

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[146] Chapter 1, pp.37-39.

[147] See Hanekom S. X., Rowland, R. M., Bain, E. G., The Key Aspects of Public Administration, Johannesburg, Macmillan, 1986, p.125.

[148] Local Government Digest, 'Inaugural Congress South African local government association', November 1996, p.7.

[149] Huntington explains this position by the threat political parties pose to the existing social structure: "In the absence of parties, political leadership derives from position in the traditional hierarchy of government and society. Parties are an innovation inherently threatening to the political power of an elite based on heredity, social status and land ownership." Huntington S. P., Political Order in Changing Societies, New Haven and London, Yale University Press, 1968, p.403.

[150] Govender C., 'Shifting the balance? Local elections in KwaZulu-Natal', Indicator South Africa, Vol. 13 (3), Winter 1996, p.40.

- Those who have worked in communities in a non-partisan way;
- Those who prefer to "hide" (for whatever reasons) their political identities.

Only the second group can really be qualified as "independent". They share the traditional view that politics should have nothing to do with local authorities and think that political party candidates get their brief from Pretoria and Cape Town and have no idea about communities' needs.

The ratepayers' associations are not a-political in principle like these independents but are created in order to defend the particular interests of a specific group. Typical of these are right wing groups who see white political parties as ineffective champions of white ratepayers' interests.[151]

The third category can cover many situations.[152] In some towns, residents from former black, Indian and coloured areas have met and agreed not to back any political parties. Winterton TLC (which is formed of a WLA and a R293 township) is "in the middle of an IFP zone but all the candidates agreed to stand as independents because we do not want politics at this level."[153] In the Impendle TLC, in the run up for the elections, political violence claimed lives in September 1995[154] and free campaigning was prevented.[155] All seven seats in the council were won by the ratepayers' organisations and independents (without competition). According to an informant from the area:

> *Before Nkabinde and Ntombela tried to launch branches in Impendle, the area was calm and there was no violence. Before the elections, people thought that political allegiance was a private matter and that development committees and organisations of civil society should be able to compete.*[156]

But given the fact that in April 1996, Mr Damasius Khumalo, an IFP candidate in Impendle was shot dead,[157] there is also a strong probability that people preferred also not to compete politically for their own safety. This phenomenon was possible in this TLC because political parties did not really succeeded in establishing their presence in the urban area. There

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[151] An example of these groups is the United Ratepayers Federation (URF) chaired by politician Brendan Willmer. During my interview with him (15.05.1997) he emphasised the decisive role of URF councillors in the Outer West sub-structures, stating that they defend "better than any other councillors" the interests of ratepayers in Botha's Hills.

[152] The Cape Times (30.05.1988) reported before the 1988 elections that the NP candidates in the Transvaal councils pretended to be independent so that their certain defeat against the CP would not be so humiliating for their party. See also Schlemmer L., 'Liberal white opposition. The strategic dilemma', in Indicator SA, Vol. 5 (3), Autumn/Winter 1988, pp.9-12.

[153] Interview with Tony Cole, mayor of Winterton, 24.11.1996.

[154] Jeffery reports (The Natal Story, p.558) the killing of five people near Impendle.

[155] Jeffery reports (The Natal Story, p.651) an incident in February 1996 where SANDF troops were used to create a human shield to prevent clashes between ANC and IFP supporters, after IFP supporters had prevented the ANC from holding a meeting at the local church hall by occupying the venue.

[156] Anonymous interview, 28.01.1998.

[157] Jeffery, The Natal Story, p.653.

were no political branches there (there were some in the surrounding tribal areas) and neither the IFP nor the ANC had really rooted themselves in Impendle.[158]

As noted above, the fact that independent councillors dominate a council can also be a proof of conservatism. Many of the independent councils were previously conservative strongholds of either the NP or the CP.[159] One can have an idea about the real importance of parties by looking at the vote transfers to the NP on the PR list. In the majority of cases, the NP was not present in wards but competed in PR and benefited from the transfer of votes. This is the case in Bergville, Melmoth, Cedarville, Nkwazi, Pennington, St Lucia.[160] On the contrary, it is very rare to observe transfer of independent/ratepayers' votes to the ANC.

A third possibility, which appeared to happen extensively in the B wards, is that "independent" candidates are in fact members of the tri-partite alliance who are defying the unity directive[161] or people who were not chosen by the ANC as ANC candidates and decided still to run for election without a political banner.[162] In May 1996,[163] the ANC suspended 15 of its members who threatened to split the party's vote in elections for the Durban metropolitan council by opposing, as independents, officially approved ANC candidates. Sutcliffe informed the press that there were about 15 other ANC members standing as candidates in the Durban sub-structures against the ANC wishes[164] and that there were also such cases in Pietermaritzburg/Msunduzi.[165] In Matatiele, three ANC members were suspended after they "went around telling residents they were ANC candidates despite the fact that they were defeated in ward conferences."[166]

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[158] Anonymous interview, 16.02.1998.

[159] Stadler notes that in the Mpumalanga province, "[m]any representatives of independents and ratepayers' association had past associations with the CP." See Stadler A. W., 'Parties in local politics', unpublished paper delivered at the Electoral Institute of South Africa's conference, The Local Government Conference, Johannesburg, 25-26 November 1997, p.10.

[160] In March 1996, St Lucia TLC was believed not to be able to hold local elections in time because MEC Miller was unhappy with the (demographic) composition of its voters' roll. The Mail and Guardian (24-30.05.1996) wrote that although nearly 200 black workers registered initially to vote in St Lucia where they lived and worked, all but 40 were removed from the rolls amid white claims that their homes were outside the TLC. The Legal Resources Centre accused white business owners of intimidating their black employees to register in nearby Dukuduku Forest.

[161] Business Day reported (20.10.1995) that SANCO branches in at least four Free State towns were defying a unity directive from SANCO and the ANC. Members of SANCO and the ANC entered into competition for nomination despite the two organisations being in an election alliance campaign in the province.

[162] Chipkin explains the presence of independent candidates in the B wards of Alberton (East Rand) by the fact that "when splits occurred between local ANC branches and/or SANCO members over nomination procedures for election candidates, many disgruntled persons stood as independents." Chipkin I., Thulare P., The Limits of Governance: Prospects for Local Government after the Katorus Wars, Johannesburg, Centre for Policy Studies' Transition Series, Research report no 52, March 1997, p.65.

[163] Business Day, 14.05.1996.

[164] According to an Inner West local council's official (anonymous interview), in the B wards, all the ANC candidates were competing against independents who were ANC members.

[165] Business Day, 14.05.1996.

[166] The Mercury, 05.06.1996.

2.2.4.2 - The independents and ratepayers' results

In the small TLCs the score of independents/ratepayers was impressive. Candidates in New Hanover in the Midlands had already been elected in April 1996 because none of the wards were contested by parties. In Himeville, near Underberg, the ratepayers won all seven seats. In a few TLCs all the seats were taken by independents in wards and ratepayers in PR. When they did not win all the seats, the independents and ratepayers' associations enjoyed the absolute majority in most of the other little towns.[167] They also hold the balance, forcing political parties to enter into alliance with them, in Weenen, Hilton, Dalton and Cedarville.

Table No. 6: Independent and ratepayers' worse (non shaded) and better (shaded) results in KwaZulu-Natal TLCs

TLCs	Number of IND/RAT councillors	Total number of councillors	Percentage of IND and RAT councillors in those councils
In small urban areas Colenso, Cool Air, Gingindlovu, Nkwazi, Nongoma	0	7	0%
New Hanover, Himeville, Wartburg, Impendle, Underberg, Camperdown, Winterton	7	7	100%
In medium-size TLCs Dannhauser, Dundee, Hibberdene, Glencoe, Greytown, Howick, Kokstad, Mandeni, Margate, Mooi River, Richmond, Scottburgh.	0 to 3	10 to 19	10.78% (on average)
Port Shepstone, Inyala, Umtamvuna	8 to 9	10 to 16	66.41% (on average)
In big towns Ladysmith/Emnambithi, Pietermaritzburg/Msunduzi, Vryheid	1 to 2	26 to 60	3.76% (on average)
Richards Bay	9	30	30%

But the bigger the towns, the fewer independents on the council. When it comes to medium towns, independent councillors hold an absolute majority only in the Port Shepstone, Inyala/ Mtubatuba and Umtamvuna/Port Edward councils. And even if they hold the balance of power in Dolphin Coast, Empangeni, Eshowe, Estcourt, Paulpietersburg, Pongola, Umkomaas, the number of councils where they did very badly is important. As we have already noted, in most of the cases, the transfer of votes of the independent voters benefited

[167] Creighton, Ashburton, Bergville, Cathkin Park, Utrecht, Hattingspruit, St Lucia, Harding, Impenjati /Southbroom, Mtunzini, Kranskop, Pennington.

the NP[168] on PR. Only in a few cases, the transfer favoured the IFP or ANC (Empangeni, Hilton in the case of the ANC, Mooi River in the case of the IFP) and in one case, the DP (Greytown).

In the big urban areas (councils with more than 19 seats), non-party candidates made a "strong showing" only in Richards Bay where they won nine out of 30 and hold the balance of power.

The contrast between the successes of independents in TLCs and their performance in Durban is striking. Out of the 164 wards contested in the six sub-structures, the independents/ratepayers' associations/URF won only 12 - and only two of the 137 PR seats. When it comes to the third ballot (direct election of the metropolitan councillors) the support for independents dropped to 2,500 votes on a total of 544,032 voters (0.004%). According to the press reports after the elections, the presence of political parties during the campaign and their strong showing in the results, indicated that there was an acceptance amongst the voters that politicians were needed to run a city like Durban. This was predicted by the then chairman of the Durban City Council management committee who stated in 1994 that:

> *Local government, especially at the metro level, is not longer a Mickey Mouse activity in which civic-minded do-gooders donate a small part of their time to city hall in return for a bit of recognition, a bit of pocket money and a lot of abuse...*[169]

2.2.4.3 - The local alliances

As we can see, the ANC is strongly present in the urban councils like anywhere else in the country, but KwaZulu-Natal's results were very specific in the sense that contrary to the trend in the rest of the country - with the exception of the Western Cape - the ANC found itself rarely in an absolute dominant position in local councils. Paul Graham reported[170] that after the November 1995 elections, the ANC had no opposition at all in 104 councils in the country (a sixth of the councils where elections had taken place). He added that "in 301 councils, the ANC majority is such that it needs no support from anyone else". In comparison, the NP was in a similar case in 30 councils. In KwaZulu-Natal, the showing of political parties and organisations such as the independents was more balanced except in regional councils where, apart from iNdlovu, the second strongest party (ANC) cannot pretend to influence the decisions on any rural council. In TLCs and in Durban, most of the councils are dominated by

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[168] Port Shepstone, Eshowe, Estcourt, Glencoe, Hilton, Mandeni, Margate, Mooi River, Richmond, Umkomazi.
[169] Peter Mansfield speaking to The Natal Mercury, 17.11.1994.
[170] Graham P., "Bird's-eye view", Democracy in Action, Vol. 9 (7), 15 December 1995, p.14.

the ANC but it needs to ally itself with other parties to obtain even a simple and more importantly a two-thirds majority (which is necessary to pass a local authority budget).

In the metropolitan area, the ANC did not obtain an outright majority in the South Central, North Central and Northern councils and offered some executive posts to other parties (the MF, the IFP[171] and the DP). This was understood by the media[172] as a move to side-line the NP, which had become the second strongest party in the metropolitan area as a whole and in South Central and North Central councils in particular. It was said that with this manoeuvre, the ANC succeeded in preventing an anti-ANC coalition by splitting the IFP and DP from the NP. This alliance with the ANC was loudly approved by the MF[173] which claimed the balance of power in two sub-structures (Northern local council and South Central). It declared just after the elections that it was prepared to establish working arrangements but not with the NP.

The ANC kept all the mayoral posts[174] as well as the chairmanship of the metropolitan executive committee,[175] but Sipho Ngwenya who had been mayor in the previous IFP-controlled city council became the metropolis deputy-mayor. The IFP also received the post of Durban's South sub-structure executive committee deputy-chairman. The ANC offered to support the DP for the posts of exco deputy-chairman of the Outer West (Vernon Webber) and North Central (Margaret Ambler-Moore).[176] The MF was given the post of deputy-mayor in South Central. The NP, which helped the IFP to secure top posts in the former nominated councils of Durban[177] was abandoned by its former ally.

If the situation regarding the party understandings was quite clear in Durban, uncertainty was prevalent in certain TLCs due to the number of parties represented on council. At the beginning it was unclear who really dominated the council and which party would ally itself with which. The most interesting cases were:

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[171] The ANC stated that the party should shun the NP in favour of the IFP and MF when forming alliances in Durban sub-structures because the IFP and the MP were coming from the "oppressed group" (Business Day, 01.06.1996).

[172] Business Day, 10.07.1996.

[173] The MF, which aggressively took up issues of insular concern to the Indian community received votes from Hindu lower middle and working class and in areas (such as Chatsworth in South Central - where it won 75% of the wards - and Verulam, Recliffe and Riet River in the Northern sub-structure) where the Indian community did not feel the need to restore to high national profile parties such as the NP. See Johnston, Johnson, 'The local elections in KwaZulu-Natal: 26 June 1996', p388.

[174] Obed Mlaba as Mayor of the metropolitan council, Theresa Mthembu for the South Central council, Sanele Nxumalo for the Northern council, Elias Mkhize for the Southern council, Meshack Radebe for the Outer West council, Sbusiso Gwacela for the Inner West council and Lydia Johnson for the North Central council.

[175] The chairmanship was offered to former DP Durban Mayor and now ANC councillor Margaret Winter.

[176] The Sunday Tribune (21.07.1996) reported that Margaret Ambler-Moore was elected with the support of the ANC beating the NP's candidate George Mari.

[177] Sipho Ngwenya was elected mayor on 6 June 1995, during the inauguration of the metro thanks to the votes of the IFP, NP and independent councillors. He beat the ANC candidate (Obed Mlaba) for the mayoral post. (Natal Witness, 08.06.1995).

- Dundee with a council of 5 ANC, 5 NP, 3 IFP and 3 independents;
- Estcourt with 7 independents, 5 ANC, 5 IFP, 1 NP and 1 ratepayer;
- Stanger with 9 ANC, 4 IFP, 4 NP and 5 independents;
- Richards Bay with 10 ANC, 6 IFP, 5 ratepayers, 5 NP and 4 independents.

The patterns of alliance were influenced by local considerations but also by the parties' directives and the post-election context seemed in the province very volatile. After the local elections, the Sunday Times[178] reported rumours of ANC and IFP leaders[179] backing a merger between their parties. On the NP side, De Klerk proposed to "help to negotiate a new non-racial opposition force with Christian values to take on the ruling ANC". Danie Schutte, NP leader in KwaZulu-Natal, was said to be keen to foster closer ties with both the IFP and the DP in KwaZulu-Natal.[180]

While the IFP and the MF were courted by the ANC and the NP, contradictory reactions came from the IFP. Its Secretary General at the time Ziba Jiyane felt[181] "much more at home" with the DP's policy and had been holding talks with its leader, Tony Leon. The same article reported a recent internal DP survey showing that the bulk of its white support would opt for the IFP as second choice after the DP. Other prominent members of the IFP were showing more inclination towards the NP.[182] But a strong stand against all these rumours of alliances and mergers was taken during the National Conference of the IFP at the end of July 1996. The IFP took then the opportunity to lash out at the central government for its failure to grant the provinces exclusive policing powers and to honour the 1994 agreement on international mediation.[183] Despite a perfunctory resolution "endorsing the recent peace initiative", the party set both these two points as preconditions for the continuation of peace efforts. In August, Mr Ndlovu, IFP security spokesman said that talk of a merger with the ANC was "absolute nonsense while the SACP held senior posts within the ANC-alliance."[184]

CONCLUSION

We have seen that if one considers only the events on polling day, the politics of KwaZulu-Natal appear to have normalised. Even if late, the province had in June 1996, consolidated its democratic process. However, if we analyse the campaign leading to the elections, one could

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[178] Sunday Times, 07.07.1996.
[179] The leaders concerned were Jacob Zuma (Economic Affairs and Tourism MEC) and S'bu Ndebele (Transport MEC) for the ANC; Public Works MEC Reverend Celani Mtetwa and outgoing Finance MEC Senzele Mhlungu for the IFP.
[180] The Mercury, 09.07.1996.
[181] The Mercury, 10.07.1996.
[182] MEC for Local Government and Housing Peter Miller was said to be in favour of an IFP-NP alliance (Mail and Guardian, 5-11.07.1996) but it came as no surprise seeing that he is an NP transfuge.
[183] Mail and Guardian, 2-8.08.1996.
[184] The Mercury, 18.07.1996.

doubt if those local elections contributed in any way to legitimate what will become a new sphere of government.

We know that the electorate was not really interested in this poll, that it had a low level of knowledge of the parties' programmes – (because they themselves preferred to deal with national issues) - and that local government's role compared to that of the provincial and national government was unclear for the communities. Besides, if on election day there were no noticeable incidents, it was because no-go areas had been already entrenched before June 26.

Seeing this context, what kind of legitimacy would be likely to emanate from councillors were elected purely because of their attachment to one of the major parties?

What are the chances that councillors feel more accountable to the party head office than to people who, even if they live in a specific ward, do not know who their councillor is and what is it that he or she is supposed to do for them?

What is the risk that a council dominated by one party might refuse to take into account the interest of the other segments of society or that a hung council might be paralysed by internal bickering?

In the aftermath of the first local elections, the risks were many in KwaZulu-Natal that what was supposed to be a "founding event" would hide the ongoing defence of specific interests without creating a new democratic and developmental space. The moment was a necessary, but purely formal one. The real changes would be brought to local government by the men and women who tried how to make this new political and technical shell work.

Part II

The councillors and their contested legitimacy

Chapter 4
Who are the councillors in KwaZulu-Natal?

Before the 1996 elections, councillors in white local government corresponded to a fairly coherent profile. The elected official was most likely to be a man who earned a higher income and was better educated than the electorate.[1] However, at least in Durban access to municipal councils has been open for a long time to different categories of the white population. Reporting on research carried out in the city in the 1970s, Purcell notes that "there is considerable consensus among the community leaders interviewed that [the "Old Durban Families"] are no longer politically significant although they appear to have been close to being a ruling class in the period before World War II."[2] Working class figures were not unknown. Jan Venter, for instance, mayor of Durban in the 1980s, was a railway worker.

Atkinson informs us that, in the erstwhile white local authorities, the role of councillor:

> *... was modelled on the 19th century idea of the 'gentleman-councillor' - typically a middle-class (often retired) person of independent means who would participate on the council as a form of community service. The allowance which such councillors received was seen as an honorarium, and to cover basic costs.*[3]

Since June 1996, the profile of the local councillors has dramatically changed.[4] Many of the interviewees, when asked who the new councillors are, or what are their main characteristics compared to the past ones, answered simply that 'they are leaders of their communities.'[5] A regional council publication[6] states that the 334 uThungulu regional councillors are "leading figures representing the interests and needs of all communities and major interest groups in the area". Councillor Harie echoes this feeling, characterising the councillors elected in 1996 by the fact that they are:

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[1] This profile corresponds to descriptions of British local councillors in the 1960s. See for instance Hill D. M., Participating in Local Affairs, Harmondsworth, Penguin Books, 1970, pp.93-98.

[2] Purcell J. F. H, Durban, South Africa: Local Politics in a Plural Society, PhD, Los Angeles, University of California, 1974, p.52.

[3] Atkinson D., Institutional Aspects of Development at Local Level: Problems and Prospects, Report submitted to the Department of Economic Affairs, Northern Cape Government, 15 April 1997, p.26.

[4] One can draw here a parallel between Dahl's description of the evolution of the composition of local power in New Haven over 100 years and the evolution in South Africa. New Haven mayors were first 'patrician mayors' (a type which had wealth, social position, education and a monopoly of public office). Then, emerged the 'entrepreneur type'. Lastly, the 'ex-plebes' took power in council. They had popularity but not so much wealth and social standing. See Dahl R. A., Who Governs? Democracy and Power in an American City, New Haven and London, Yale University Press, 1979, p.11-84 (Book I. 'From oligarchy to pluralism'). In South Africa, the process was completed in one or two years (if one considers the pre-interim phase as the transitional period) and without experiencing the 'entrepreneur phase'.

[5] Interview with cllr Brian Nair, ANC chairman of the exco of the Outer West local council, Kloof, 04.06.1997.

[6] uThungulu regional council's newsletter, Ezimtoti, No. 1, May 1997, p5.

> *... rooted in their community's problems. They all have a past of involvement in NGOs, community-based organisations (CBOs)*[7]*, ratepayers' associations and political parties. It is totally different from what the old council looked like. Most of them were retired people or housewives, people who had some time to spend in the council.*[8]

It seems important to go beyond this superficial discourse, which insists on the councillors' representivity and their supposed capacity to articulate their constituencies' needs because, 'they are part of them'. The notion of 'leadership' attributed to the councillors should also be questioned. What kind of 'leaders' are we talking about? What are the strengths which these new councillors will be able to bring to the councils in order to overcome the multiple apartheid legacies they inherited? Strong political leadership will certainly be needed if citizens are expected to accept unpopular decisions which local authorities will undoubtedly have to take (payment of services, eviction of squatters etc.). The quality of the new councillors will be crucial to the success of transformation in local government. This chapter attempts to give a profile and assessment of these councillors.

It has proved difficult to do this, because there is not one type of councillor. Not only do the characteristics depend on the nature of the local authority (rural, urban or metropolitan councils) but inside the same council, and inside the same party, councillors can be very diverse. For example, replacing the previous uniformity of middle age, in the new councils, very young people rub shoulders with the 'old guard'. Prominent posts, especially in Durban, are occupied by very young persons. For example, in the North Central council, Nomsa Dube, chairperson of the exco is 30. The mayors of the Inner West, Northern and Southern local councils are respectively 30, 33 and 35. Outside Durban, the mayor of Kokstad was 26 when he was elected mayor in 1996. Most of the very young councillors are fulfilling their elected duties while completing their studies.[9]

In order to establish a profile of the present councillors, we need first to define the term 'leader'. All the councillors interviewed have lived in the local authority they represent for more than ten years. They certainly know the dynamics of their own community, be they white, Indian or black. But what makes them particularly suitable to represent their ward or their municipality? What does that mean to have an 'involvement in one's community' and is it enough to fulfil the council's duties?

Interviews with the new councillors were designed to build a profile based on political experience, education and occupation.

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[7] For a definition of CBOs, see chapter 3, note No.55.

[8] Interview with cllr Kishore Harie, ANC metropolitan councillor, Durban, 13.03.1997.

[9] The chairman of the Outer West local council is studying for a Masters in Business leadership. (Interview with cllr Brian Nair, ANC chairman of the exco of the Outer West local council, Kloof, 0406.1997).

1 - What kind of leaders in local councils?

1.1 - Patterns of association

To be a 'leader' in the context of the new local government, does not seem to have anything to do with being what might be labelled as 'an agent of development'. Local councillors usually belong to some local association and "it is important as community leaders to attend those meetings because it is there that you can get the pulse of the community."[10] But very few councillors were engaged in CBO or NGO activities, aiming at upgrading or bringing development to their areas. Councillors usually would belong to school bodies,[11] the local church council or cultural organisations.[12] Belonging to other associations such as local residents' association or community policing forums, is characteristic of DP and NP councillors. Community 'involvement' often also means, especially for ANC councillors, that they play a role in sport associations or activities directed toward the local youth.[13] No interviewee (except for the few who are working on a full time basis for an NGO) mentioned any participation in NGO or developmental work, with the exception of the mayor of the South Central local council. She worked for Diakonia as a social worker and as a researcher at the University of Natal until 1993. She then got involved in a community project to build a community hall and a crèche in Umlazi N section.[14]

In fact, when councillors speak about leadership, they tend to refer to their past political involvement. To be a leader for the ANC councillors, is to have participated in the struggle against apartheid. For the IFP, it is to be a long-time member of the party and to have fought against the UDF. It is important to clarify this aspect of political involvement of present local councillors. This conception of 'political leadership' is more characteristic of the ANC and IFP than of the NP and DP, in which there are still traces of the previous dispensation's emphasis on councillors as community leaders rather than political functionaries. Yet even in these 'formerly white' parties, the politicisation of community service is clear in practice.

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[10] Interview with cllr G. Mari, NP ward councillor, member of the exco of the North Central local council, Durban, 11.06.1997.

[11] Given that a lot of the councillors were or are teachers, they stayed in touch with the community through this channel, as well as churches (Interview with Cllr Khwela, IFP exco councillor in the Pietermaritzburg /Msunduzi TLC and rural councillor in iNdlovu regional council, Pietermaritzburg, 29.01.1997).

[12] Interview with cllr A. R. Mitchell, NP ward councillor, member of the exco of the Inner West council, interviewed in Queensburgh, 06.06.1997.

[13] Interview with cllr K. P. Chetty, ANC ward councillor of the Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 21.01.1997.

[14] Sunday Tribune, 21.07.1996.

1.2 - The political experience of councillors

1.2.1 - Councillors with long-established political identification

For most of the local councillors who are long-time members (or sympathisers) of their party, their activism dates back to their school years. Cllr Kathide's statement is typical of many other interviews of ANC councillors: "I became involved in politics at school when I started fighting bantu education."[15] The mayor of the Ladysmith/Emnambithi TLC was in Standard 7 when he got involved in politics.[16] This early involvement is also true of the IFP councillors.[17] They did not rebel against their education, but they were assimilated, at an early stage, in the dominant party structure, especially in the rural areas.

1.2.1.1 - A few councillors with a national profile

Some councillors had enjoyed a national or provincial profile in the past. Councillors Vilakazi and Meyiwa from the Outer West executive committee are among those who have played a role in the struggle at the national level. The former, now chairman of the town planning committee in the Outer West local council, is a co-founder of COSATU. The later was part of the delegation of five prisoners from Robben Island which went to see Mandela in his prison and "discuss peace with the NP in 1989."[18] Three councillors interviewed belonged to the delegations which met the ANC in Lusaka in 1989.[19]

Some present councillors who participated in the apartheid system of government, occupied prominent posts as politicians at national level. The Outer West URF councillor Iyaman is a former national MP (from 1984 to 1989) and was deputy chairman of the general affairs committee in Parliament.[20] In 1992, North Central councillor G. Mare[21] spent 11

[15] Interview with cllr M. P. Kathide, ANC ward councillor, exco member of the Ladysmith/Emnambithi council, Ladysmith, 20.08.1997

[16] Interview with cllr S. D. S. Vilakazi, mayor of Ladysmith/Emnambithi TLC, ANC PR councillor, Ladysmith, 21.08.1997.

[17] Cllr B. S. Dladla, deputy-chairman of the uThukela regional council, joined the IFP when he was at school. (Interview in Ladysmith, 02.06.1997).

[18] Interview with cllr M. M. Meyiwa, ANC PR councillor, deputy-mayor of the Outer West local council, Kloof, 09.06.1997. He was released from jail in 1991 after having spent a total of 22 years on Robben Island. He had joined Umkhontowesizwe (MK) in 1961.

[19] See Louw R. (ed), Four Days in Lusaka: Whites in a Changing Society, Excom, Five Freedoms Forum, 1989. Cllr Chetty (ANC ward councillor of the Pietermaritzburg/Msunduzi TLC interviewed on 21.01.1997) was one of the 100 Indian delegates to meet the ANC in Lusaka in 1989. V. I. Webber, now deputy-chairman of exco in the Outer West local council was part of the business delegation. Regional councillor Rev. Mthethwa, first on the ANC list for the uMzinayathi regional council was also in Lusaka in 1989 (Interview with Rev. James Mthethwa, ANC uMzinyathi exco councillor, chairman of the tourism portfolio, 27.11.1996).

[20] Interview with Brendan Willmer, chairman of the United Ratepayers Association, Durban, 15.05.1997.

[21] Interview with cllr G. Mare, NP ward councillor, member of the exco of the North Central local council, Durban, 11.06.1997.

months in the House of Delegates. Cllr Oldfield[22] had been the chairman of the Natal Provincial Council, an MP for the United Party and then the New Republic Party (until it was disbanded in 1988). Ulundi councillor Simon Conco belonged to the KwaZulu Legislative Assembly and was chief whip of the legislature. In 1986, he became the first secretary general of the United Workers' Union of South Africa (UWUSA), the union set up by the IFP to counter COSATU's activities.[23]

But whether they were ready to retire and could not hold a prominent provincial or national position, or whether their involvement in the party was not considered important enough, those who are now local councillors were not asked to occupy higher positions at provincial or national level. When an ANC regional councillor was asked the reason why he did not occupy a higher post, he said that "nobody has asked me to stand as an MP". To be a local councillor was often the last chance for politicians/activists to occupy an elected position. It is seen as the last resort for people who could aspire to a national or provincial position and were disappointed when the distribution of positions took place. In this aspect, the interviews seemed to confirm the popular view of local government as 'the third tier of government.'

A noteworthy trend, especially among white representatives, is for wives of provincial or national politicians to hold council positions. Mrs P. Ellis, wife of member of the national assembly and DP spokesperson Mike Ellis, sits in the Outer West local council. Mrs S. Burrows, wife of the DP member of the provincial assembly Roger Burrows is a councillor in the South Central local council.[24] Mrs A. Schutte, wife of the NP leader in KwaZulu-Natal is a Pietermaritzburg/Msunduzi councillor. Finally, Mrs S. Felgate, former wife of the former Inkatha MP, is an Ulundi councillor. This seems to show that the white community still considers a post in the council as a 'house-wife' job. Cllr S. Burrows stated that "my first job is to be a mother (three children), then a part-time career librarian at University. I only deal with municipal business in the afternoons."[25] But this phenomenon extends beyond the predominantly white parties. For instance, the wife of alleged IFP warlord and former provincial MP Thomas Shabalala, is a ward councillor in the North Central local council. These family ties aptly symbolise the politicisation of local government and the integration of national, provincial and local levels of the parties. Harmony was not always achieved however. When her former husband defected to the ANC, Mrs S. Felgate was prominent in

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[22] Interview with cllr Oldfield, NP exco councillor, South Central local council, Durban, 19.03.1997.
[23] Cllr Simon Conco, IFP exco member in the Ulundi council, and member of the exco of the Zululand regional council, Ulundi, 22.07.1997.
[24] Sue Burrows during the interview carried out for this study, stated: "I am not a political animal but I feel strongly about justice and liberalism. I became involved in politics through my husband." (Interview with cllr S. Burrows, DP exco member of the South Central local council and metropolitan councillor, Durban, 14.02.1997)
[25] Interview ibid.

efforts to discredit him in the press: "this tragedy is a personal one of Shakespearean dimensions - not only for me but I believe also for Walter."[26] Mrs A. Schutte took a strong stand against her party (NP) on the firing of Roelf Meyer from the task team he was heading. She opposed openly De Klerk's decision, risking disciplinary action.[27]

1.2.1.2 - Most of the exco councillors have a strong local profile

Among the councillors in KwaZulu-Natal, those with a strong political local profile can be found either in executive committee positions of TLCs and TMCs, or were elected at the Durban metropolitan level.

The majority of local councillors who hold now a position in an executive committee built up strong local profiles in the 1980s. Some were introduced to politics through their trade union involvement. Others were activists in local civic associations, branches of a party and some have been implicated in past atrocities during the apartheid era.[28]

In the 1980s, belonging to a COSATU affiliated union meant taking a strong stand against the government, the IFP and the KwaZulu government and for most of those councillors, that is how they became involved in politics. The mayor of the Southern local council Elias Mkhize, was an official in the National Union of Metal Workers.[29] The deputy-mayor of South Central was an organiser in a textile union.[30] The mayor of Mandeni[31] is a former trade unionist, having spent ten years with COSATU: "when COSATU was banned by the KwaZulu government, we got involved beyond the factory issues". The deputy-mayor of the Ladysmith/Emnambithi TLC became involved in politics through protest actions (COSATU) in Steadville and eZakheni.[32] Given that a lot of councillors are - or were - teachers, a lot of them were active in the South African Democratic Teachers Union (SADTU).[33] It is worthwhile to note that this past involvement in the unions is today a contentious issue. Often, white parties in council complain about an alleged lack of

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[26] The Mercury, 15.08.1997.
[27] The Mercury, 20.05.1997.
[28] KwaZulu-Natal attorney general Tim McNally has refused to prosecute nine suspects the Investigation Task Unit was preparing to arrest for five hit-squad killings at Empangeni's Esikhawini township in the early 1990s. One of the suspects was the IFP Richards Bay mayor Bonginkosi Biyela. (Sunday Tribune, 27.10.1996). Biyela was at the time the mayor of Esikhawini. A Truth and Reconciliation Commission applicant (Mkhize) told the Commission that Biyela had promised to help him to kill ANC members (Natal Witness, 08.08.1997).
[29] The Sunday Tribune, 21.07.1996.
[30] Interview with cllr M. Rajbally, deputy-mayor of the South Central local council, MF ward councillor for Chatsworth.
[31] Interview with cllr Sam Zwane, ANC mayor of Mandeni, Mandeni, 14.07.1997.
[32] Interview with cllr K. G. Rassool, deputy-mayor of Ladysmith/Emnambithi, ANC PR councillor, Ladysmith, 20.08.1997.
[33] Example of cllr T. M. Mahaye, ANC chairman of the Glencoe exco. The deputy-mayor of Estcourt, cllr Chotoo became also involved in politics through SADTU, an affiliated to COSATU in the 1980s

independence of mind of some councillors when they have to debate trade union issues: "most of the councillors belonged to COSATU and they have a problem when it comes to deal with the unions."[34]

In the Durban metropolitan area, the majority of the ANC councillors who were 'activists' gained their political experience through their participation in civic associations. Since 1960, North Central deputy-mayor councillor Bonhomme was involved in "extra-parliamentary freedom fights". He was a founding member of the UDF, belonged to the civic association of Newlands East and was an executive member of SANCO.[35] Councillor Nair, chairman of the Outer West local council exco was the chairman of a civic association.[36] In 1983, councillor Gumede[37] was chairman of the Joint Rent Action Committee (JORAC) at a moment when boycotts were spreading and "the IFP was preventing mass action". Councillor Naidoo[38] has been involved since the 1980s in community organisations and was part also of the Chatsworth housing committee, the Natal advice centre association, the Natal Indian Congress and the UDF. The mayor of Northern local council, Sanele Nxumalo, was the chairman of the Hambanathi civic association and executive member of the local ANC branch.[39] Some councillors made their mark in efforts to stop township violence. In the Outer West local council, Dr Meshack Hadebe (ANC) was elected mayor for the financial year 96/97 with no opposition.[40] He was the ANC chairperson in the Mpumalanga township (near Hammersdale) in 1990 and brokered a peace agreement with Sipho Mlaba, his IFP counterpart (an IFP branch chairman since 1986) who was also elected as a local councillor. This put an end to years of violence between the two parties in the township.[41]

Despite this core of experienced activists, most of the local councillors in KwaZulu-Natal are newcomers to politics.

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[34] Interview with cllr D. A. Reyneke, NP PR councillor, exco member and leader of the NP caucus of the Ladysmith/Emnambithi council, Ladysmith, 21.08.1997.
[35] Interview with cllr T. Bonhomme, ANC deputy-mayor, North Central local council, Durban, 1903.1997.
[36] Interview with cllr B. Nair, ANC chairman of the exco of the Outer West local council, Kloof, 04.06.1997.
[37] Interview with cllr S. N. Gumede, ANC, South Central and metropolitan councillor, Durban, 03.03.1997.
[38] Interview with cllr Shoots Naidoo, ANC South Central and metropolitan councillor, Durban, 13.03.1997.
[39] The Sunday Tribune, 21.07.1996.
[40] Outer West local council, Minutes of the Council, 10.07.1996
[41] See Claude N., 'Mpumalanga: test case for democracy?', KwaZulu-Natal Briefing, No. 7, May 1997, pp.19-21.

1.2.2 - A majority of newcomers

1.2.2.1 - New in the party

A North Central councillor complained that few of his fellow councillors had "a political home before the elections. They had to join a party because it was on this ground that the elections were fought" For the moment, we have studied the profile of the exco and metropolitan members. Officials and councillors agree on the fact that the councillors' political involvement is totally different when it comes to 'ordinary' (non-exco) councillors. Non-ANC Durban councillors feel in general that there are a lot of 'new sheep' amongst the ANC councillors, who were not involved in politics before. This is confirmed by interviews in the Outer West local council where respondents said that most of the councillors are very new and were "picked up" by the party just before the elections.[42] This is linked with the difficulties faced by the two 'black' parties in enrolling quality candidates for the local elections. Low levels of political activism combined with a lack of local leadership in the view of some critics. According to The Mercury's municipal reporter, Leanne Seeliger:

> *... the councillors are weary from being at the coal-face of the electorate's irritations and expectations...What is really lacking in the* [Durban] *central councils is a renewed culture of political activism and strong grass-roots leadership, that will ensure that colleagues in provincial and central government sit up and listen to the moans of their electorate. If councillors continue to make meek requests, they will forever bear the brunt of their electorate's disenchantment.*[43]

This kind of criticism, which links directly the political activism of the councillors and their capacity to interact with the two other 'spheres' of government, does not go uncontested and the influence of party politics is not always welcomed. For instance, a North Central councillor questioned the parallel often made between a political activist and a responsive councillor:

> *... parties are bringing division amongst the constituency. Councillors, even if they dedicated their life to the improvement of the life of their communities before, have now their own agendas. I would have had twice the number of votes I got if I had stood as an independent.*[44]

In some medium TLCs, even top positions are given to very fresh party members. They are usually the ones who are the more aggressive in their speech, probably wanting to make up for their lack of political commitment in the past. They speak about "battle", "power", "influence", stating that what is important in council is "not to be a loser at the end of the

[42] Interviews of officials and local councillors of the Outer West local council.
[43] The Mercury, 28.08.1997.
[44] Interview with a North Central councillor (anonymous).

day."[45] Even in Ulundi, political home of the IFP, only 5 out of the 13 councillors are long-standing members of the party structures.[46]

The following remarks made in the English context seems also pertinent for South Africa:

> *Extensive party experience is neither necessary nor sufficient for council membership, but it makes a candidature more likely...*[47]

1.2.2.2 - Do they consider themselves as politicians?

When asked about who they are, councillors are in general reluctant to identify themselves as 'politician'. Of those who did, most are holding a full-time and paid prominent position[48] in the local authority and are enjoying it (for example, the mayor of North Central local council who added that she would probably run for the local elections in 2000).[49] Others said so when they have been involved for a long-time, also on a full-time basis, as activists. In these two cases, councillors had abandoned other kinds of activity and dedicated themselves fully to the council work.[50] To be a politician means today not so much having a high profile in the party but earning a living from one's council activity.

On the other hand, some councillors stated very strongly that they do not see themselves as politicians.[51] For example, councillor Harie emphasised that:

> *... if everything was just and people equal, I would never have been involved, but in the South African context I had no choice... People needed a better life and I chose to join the ANC because they led the liberation struggle.*[52]

Omar Latiff, then mayor of Pietermaritzburg/Msunduzi, insisted after his election that he was a "civic creature rather than a politician."[53] Indeed, he was a nominated councillor in the pre-interim phase under the banner of the ratepayers' association, not of the ANC. The common characteristic of all those ANC councillors who claim not to be politicians, is that they combine their elected position with very demanding jobs and are successful in their professional lives.[54]

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[45] Interview with a new comer in the ANC.
[46] Anonymous interview.
[47] Barron J., Crawley G., Wood T., Councillors in Crisis. The Public and Private Worlds of Local Councillors, London, MacMillan, 1991, p.52.
[48] Either mayor, deputy-mayor, chairperson or vice-chairperson of the exco.
[49] Interview with cllr Lydia Johnson, mayor of the North Central local council, ANC PR councillor, Durban, 08.05.1997.
[50] This has a direct impact on the question of allowance for councillors. See below, pp.149-150.
[51] Interview with cllr S. N. Gumede, ANC South Central and metropolitan councillor, Durban, 03.03.1997; interview with cllr S. Zwane, ANC mayor of Mandeni, Mandeni, 14.07.1997.
[52] Interview with cllr K. Harie, ANC metropolitan councillor, Durban, 13.03.1997.
[53] The Sunday Times, 23.03.1997.
[54] For example Mayor Latiff took unpaid leave from his senior tax lecturer post at the Pietermaritzburg campus of the University of Natal but still runs an accountancy firm. Cllr Harie founded his own attorneys office and continued to practice during his time as a metropolitan councillor.

Neither would white local councillors elected on a DP or NP ticket in general consider themselves as 'politicians'. North Central councillor Pepler's first involvement in council matters was through the local ratepayers' association. He emphasised that he only joined the NP because:

> *... I realised that to stand as an independent or for a ratepayers' association would not bring us very far and that the elections were run on a party political line. So I looked for a home in a party. I joined the NP but on my own terms.*[55]

The majority of the local councillors in KwaZulu-Natal are coming either from the ANC or the IFP. The first party rejected the apartheid local government system and the second participated in the BLAs and JSBs' system but the party lost the elections in the urban areas and the JSBs did not involve many rural representatives.[56] As a consequence, few of the present ANC and IFP councillors had a real knowledge of how local government works before taking up their position. The pre-interim phase could have been (but only in the urban areas) an opportunity for the councillors to gain some insight. But the reality was that the experience was very limited.

2 - Councillors' experience of local government

The councillors elected during the first democratic local elections could have gained experience of local government either during the apartheid era, or during the pre-interim phase (in the negotiating forums).

2.1- Experience acquired during the apartheid era

2.1.1 - In rural areas

In the 1996 elections, voters had to express their choice for candidates who had had in general, little involvement in the past system of local government. This was particularly true for rural local governments. Present regional councillors could not have gained an insight in their future local authorities' affairs during the pre-interim phase because there were no negotiating forum in rural areas. Moreover, before 1996, there were no elected councillors for rural areas and so virtually complete inexperience was the norm. It has been possible to

[55] Interview with cllr Pepler, NP ward councillor, North Central and metropolitan council, Durban, 15.05.1997.
[56] See annexe XIX, the composition of the Thukela Joint Services Board.

compare the present composition of some of the regional councils' executive committees (exco) with their equivalent in the former JSBs (the management committees or manco).[57]

Table No. 7: presence of former JSB management committee members in the exco of the regional councils.

Regional councils[58]	Number of exco members in the regional council	Number of former JSB manco members who are presently exco councillors
uThungulu regional council (RC 1)	30	- (only one former manco member but he is now an 'ordinary' - non-exco - councillor)[59]
Zululand regional council (RC 2)	22	1 (former Zululand JSB manco member, representative of Melmoth TLC)
uMzinyathi regional council (RC 3)	22	2 (the former chair of the Thukela JSB and a former representative of the Natal Agricultural Union - NAU)
uThukela regional council (RC 4)	20	3 (1 representative of Ladysmith/Emnambithi and 2 amaKosi)
iNdlovu regional council (RC 5)	30	5 (the former chairman of the East Griqualand JSB, 2 reps of TLCs, 1 of a regional authority and 1 of the NAU)[60]
iLembe regional council (RC 6)	28	N/A
Ugu regional council (RC 7)	25	1 (an inKosi who chaired the Northern Hinterland Section 11 Committee)[61]

[57] Given the large number of councillors in both the Joint Services Boards and the regional councils and the fact that the decisions were really taken during manco (now exco) meetings, it seemed sufficient to compare those two bodies. The comparison was possible in the RC 1, 2, 3, 4, 5 and 7 which provided documents on the composition of the Zululand, Thukela, East Griqualand, Midlands and Southern Natal JSBs' last manco composition (1995/1996).

[58] See annexe II of the former JSBs and present regional councils' boundaries.

[59] If no present regional councillor sitting in the uThungulu executive committee participated in the former JSB, it is worth noting that the vice-chairman of the regional council during its first year was B. B. Biyela, well-experienced in the functioning of urban local government. He became a councillor in Ezikhawini (now part of the Richards Bay TLC) in 1983 and in 1988 became the mayor of the township. B. B. Biyela resigned both as the vice-chairman of the regional council and as the mayor of the Richards Bay TLC in September 1997, to become CEO of the uThungulu regional council.

[60] Besides, in the iNdlovu exco, there is one councillor who was a long-time councillor of the Howick white local authority.

[61] Each sub-division of a JSB was covered by a section 11 committee where amaKosi, and "members of the community" sat. For a definition of the section 11 committees, see chapter 1, p.33.

Table 7 makes it clear that very few regional councillors sat in the management committee of the JSBs and those who did were representing either urban local authorities or were amaKosi.

It is in iNdlovu where the most experienced councillors are found in exco. The chairman of the regional council, J. M. A. Ngcobo belonged himself to the JSB manco and represented the Maphumulo regional authority. Despite making some virulent and public criticisms against the JSBs, he participated in them. The vice-chairman of the iNdlovu regional council is also the former chairman of the East Griqualand JSB.

2.1.2 - In urban areas (TLCs and Durban)

In urban areas, only the former white councillors have known what it means to be a councillor with powers to decide over the future of a local authority. But even for those who sat in a WLA,[62] the relevance of their experience in the new dispensation can be questioned. The local authorities they knew, no longer exist. The new TLCs are twice or three times bigger, with needs, expectations and dynamics unknown to the white councillors.[63] In fact, during numerous interviews with former WLA councillors, some of whom are occupying prominent posts in the present councils, it seemed to the researcher that they had little awareness of what was happening in their new local authorities as a whole. This is not surprising when one considers the extraordinary fragmented 'use' of the municipal area by the different communities. Whites are most likely to stay in the white part of their town which provides them with all the facilities they need. White councillors know what is happening in the former white core of the town but are unable to talk about the dynamics in the black or Indian areas. For example, the chairman of the exco of a North coast TLC was unaware of the type of ward meetings held by his fellow black councillors (which he never attended). The same lack of knowledge about what is happening in different parts of the new TLCs was noticed, but to a lesser extent,[64] among the Indian and the black councillors.

White councillors are not the only one who can claim to have an experience in local government. Some present Indian councillors did participate in the past in the local affairs committees (LACs).[65] Even if they had no experience of autonomous decision-making, they

[62] For example, in July 1996, Dave Ware was elected mayor of Dundee for the ninth time (The Mercury, 12.07.1996).

[63] Most of the white councillors who belonged to the former WLAs tend in KwaZulu-Natal to deny this fact. For example, they would not come to training sessions offered to the council. They regard themselves as experienced enough and do not feel the need to be "lectured" (interview with an anonymous NGO trainer). Only a few councillors acknowledge that all of them are "on a learning curve".

[64] This difference can be explained by the fact that Indian and black communities have a familiarity with the white part of town, if only for employment purposes.

[65] Former LAC councillors sit in general in TLC councils as independents. In the Durban councils, because the elections were held on a stronger political basis, they are in general Indian NP councillors.

got some insight into the way a white local authority was run. The LAC members, despite the fact that they had only deliberative rights, became acquainted with the agendas, committee system etc. Cllr Vahed who was a member of the Estcourt LAC from 1979 onwards explains that:

> *... it was humiliating. But I said to myself, things will change and I do not want to be ignorant. I got to know the work of each department and the phases of the meetings. My friends were opposed to the position I held but they would come to me regarding their problems.*[66]

In general, when a white town amalgamated with an Indian area, one finds at least one TLC councillor (usually under the banner of independents, especially in the medium TLCs) who have participated in a LAC. This is the case of councillor G. Mari[67] who was elected in the 1988 local elections in the Phoenix local affairs committee.

On the contrary, a negligible number of the councillors elected in 1996 held a position in a BLA. This is because the present ANC councillors refused to participate in them and the IFP candidates who had been BLA-councillors were not elected, as a result of the weak showing of the IFP in urban areas. When it comes to R293 townships' councils, even if in places like Ulundi (which was a R293 township), the majority of the present councillors belonged to the former council, the relevance of their experience of power is rather limited. It was the KwaZulu government which took all the decisions.[68]

As a consequence, the "experienced" councillors would be typically either white (having participated in a WLA) or Indian (having participated in a LAC).

This lack of experience of public representatives is not only true for local councillors and applies to all levels of government. But it has become a commonplace to state that after 1994, the most "educated" or "able" persons were absorbed by the national or provincial spheres. This meant that even if they had no previous direct experience (in the running of a provincial or national department or in sitting in a national or provincial legislature), they could hope to adapt quickly. By contrast, at local level, talent was more thinly spread.

One other possible source of experience in local government, in the midst of this general picture of inexperience, was the pre-interim phase.

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[66] Interview with cllr D. M. Vahed, Alliance of Independent, elected on PR, former mayor of Estcourt, Estcourt, 07.08.1997.

[67] Interview with cllr G. Mari, NP ward councillor, member of the exco of the North Central local council, Durban, 11.06.1997.

[68] Interview with councillor Masongo, mayor of Ulundi, Ulundi, 22.07.1997. He explained that the R293 council had "an advisory role to the KwaZulu Government. If they wanted to listen to the council they did but we had no power". See also chapter 1, pp.25-26.

2.2 - Experience acquired during the pre-interim phase

A comparison can be made between the composition of the negotiating forums in the pre-interim phase and the composition of the present local councils. However, one cannot draw too many conclusions on this exercise. The number of pre-interim councillors was much more important than that of interim councillors.[69] Some of the councillors nominated in the forums did not want or could not compete in the local elections. On the other hand, some competed but lost.[70] As a consequence, when looking only at the results, it is difficult to determine for example the reason why pre-interim councillors are more present in one council than in another. This depends too much on local and personal reasons (the nominated councillors could have chosen not to compete for a range of reasons or could have competed but lost).

2.2.1 - In Durban

In the Durban metropolitan area,[71] the parties' lists of candidates for the local government elections[72] contained many councillors who had occupied senior positions in the pre-interim phase and gained some experience in political negotiations. It is possible that forum participation gave councillors a status as "founding fathers" who have proved themselves in helping to bring about a new local order. Before the elections, on the ANC side, Obed Mlaba had been the chairman of the executive committee, Margaret Winter had been a mayor of Durban, Peter Corbett and Roger Sishi were metropolitan executive committee members. For the IFP, Sipho Ngwenya had been the last metropolitan mayor of the pre-interim period and Anthony Grinker had been a metropolitan executive committee member. The DP's candidate list included Mark Lowe (then metropolitan deputy-mayor) and Margaret Moore (at the time Central executive committee member). The NP candidates included among them the Central executive committee chairman Malcolm Prentice and metropolitan executive committee member Johan Krog.

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[69] In the table No.9 below, one can see how many seats there were on average in the negotiating forums of what are now small, medium and big councils.
[70] The researcher had at her disposal only the names of the candidates competing for ward seats in TLCs and not the ones who were running on the PR list.
[71] The comparison between the pre-interim and the interim council (before and after the 1996 elections) has been possible because of the very detailed data made available by the metropolitan area of Durban.
[72] The Mercury, 02.04.1996.

Table No. 8: Proportion of nominated councillors sitting in the different transitional councils of the Durban metropolitan area

Name of the councils	Full council			Executive committee		
	No. of nominated cllrs present in council	Total number of cllrs in council	%	No. of nominated cllrs present in exco	Total no. of cllrs in exco	%
Transitional metropolitan council	38	70	54.28%	11	12	91.66%
South Central local council	12	60	20.00%	6	12	50.00%
North Central local council	11	70	15.71%	8	12	66.66%
Northern local council	13	30	43.33%	10	11	90.90%
Inner West local council	5	42	11.90%	2	11	18.18%
Outer West local council	5	41	12.20%	4	12	33.33%
Southern local council	N/A	N/A	-	N/A	N/A	-

A comparison between the composition of the metropolitan and sub-structure councils in the pre-interim and interim phase,[73] shows that in fact, the proportion of elected councillors who were part of the negotiating process is low. At the metropolitan level, approximately half of the 70 councillors elected in 1996 had occupied a post in the former metropolitan council or in one of its sub-structures (38 councillors out of 70). When it comes to the sub-structures' councils, the proportion is considerably lower.

The majority of the pre-interim councillors can be found in the executive committees, which are the bodies which take the decisions. Experienced councillors are more heavily represented there than in the full council because it is at that level that expertise is really needed. In the metropolitan council, the four most important posts (mayor, deputy-mayor, chairman of exco and vice-chairman of exco) are held by former nominated councillors. In the exco, only one councillor (out of 12 members) is new in council, the others having occupied positions in the pre-interim TMC or in the former Central sub-structure. The majority of the North Central and South Central exco members belonged to the former Central council or to

[73] The following comparison was based on the data gathered in the Project Vote / NDI , National Directory of Transitional Local authorities, (which lists for March 1996 the composition of all the nominated councils in the country) and on the composition of the different councils in the metropolitan areas. The comparison was not possible for the Southern sub-structure because this local council is not mentioned, by mistake, in the National Directory.

the TMC.[74] But when it comes to the sub-structures at the periphery of Durban, councillors' experience is very limited.[75] As previously said, this phenomenon is difficult to explain and without any insight in the local dynamics, one is reduced to hypothesis. One which still has to be corroborated, is that councillors occupying an exco position in the two central councils and at the metropolitan level, tend to consider themselves more as 'professional councillors'. Because the boundaries of Durban are still associated with the South Central and North Central councils and because it is there that the councils' decisions affect the majority of Durbanites, exco central councillors consider themselves as the representatives of Durban (or at least the most significant part) and tend to have a heavy work load. They are more likely to dedicate all their time to the council work and compete for a second mandate.[76] Besides, exco metropolitan councillors are only elected on PR and this makes it easier for a 'professional politician' who can claim the support of a party, to stand and to win than for a retired citizen interested in the life of his/her area. As a consequence, the composition of the exco in the central and metropolitan councils of Durban seems to be more 'stable'.

However, it is not enough to study Durban because it is not really representative of local government in the whole of KwaZulu-Natal. It is in Durban, the largest city of the province, that the lowest turnover of councillors could be expected. This is especially so because local councillors there tend to regard themselves as professional councillors and receive higher allowances.[77] It is also necessary to compare the pre-interim and interim councils in TLCs.

2.2.2 - In the TLCs

This comparison has proved only partially possible. Due to a lack of information on the identity of the candidates who competed on the PR list,[78] it was possible to cross-check only the ward seats.

[74] Eight North Central councillors and six South Central councillors on a total of 12 exco councillors in each local council belonged to pre-interim structures.
[75] See in table No. 8, the weakness of the presence of pre-interim councillors in the Inner West and Outer West local councils.
[76] See also further in this chapter, the point on "centre vs. periphery", paragraph 4.1.2.
[77] See annexe XX, for the amount of councillors' allowances according to the local authority.
[78] The listings of the Provincial Election Task Group on which this study is based, did not mention the names of the PR candidates and PR councillors.

Table No. 9: Proportion of nominated councillors who competed for a ward seat in TLCs and proportion who won.

NUMBER OF SEATS IN COUNCIL		COMPETITION		ELECTION	
Pre-interim phase	Interim phase	% of nominated cllrs who competed for a ward	% of TLCs where 50% or more of the nominated cllrs competed	Average % of nominated cllrs who won a ward	% of TLCs where all nominated cllrs who competed won a seat
12 (average[79])	7	36%	29.41%	50%	23.52%
24 (average)	10-19	35%	14.28%	45%	4.76%
55 (average)	22-60	35%	0%	34%	0%

The number of seats in pre-interim urban councils was bigger than in the interim period. But that does not mean that a battle took place between the pre-interim councillors in order to get into the new council. In fact, just more than a third of the pre-interim councillors decided to compete for a ward seat in the 1996 elections and it is in the small TLCs that they were most frequently present. It is also in the smallest urban areas that the pre-interim councillors got the best results but on average, the proportion of successful nominated councillors never went beyond 50%.

Table No. 10: Participation of present ward councillors in the pre-interim phase, according to the size of the TLC

Size of the present TLCs	Average number of ward councillors who belonged to the pre-interim council	Total number of ward councillors	Percentage of ward councillors who took part in the pre-interim phase
7 seats in council	2.42	4	60.5
10 seats in council	3.2	6	53.3
13 seats in council	4.5	8	56.2
16 seats in council	5.16	10	51.6
19 seats in council	4.25	12	35.4
26 seats in council	8	16	50
34 seats in council	6	20	30
60 seats in council	8	36	22

Most of the ward councillors in the small and small to medium towns (7 to 16 seats) were nominated councillors in the pre-interim phase. Given the fact that in this category, fewer

[79] The number of seats in the pre-interim council varied from one local authority to another. The researcher calculated an average number of seats corresponding to the present small (7 seats), medium (10 to 19 seats) and big (22 to 60 seats) TLCs.

local authorities amalgamated with black and Indian areas, most of the those councillors (78% in the 7-seat council, 32% in the medium councils) belonged to the former white local authority (town board, town council, health committee, borough).

As we have already stated, few LAC councillors and even fewer BLA councillors were elected during the 1996 elections. Those who were, and participated in the nominated councils, did not really gain any experience from the pre-interim phase. According to a provincial official, in most of the TLCs, the pre-interim council was white-dominated and "black and Indian councillors were tokens [like in the apartheid era]."[80]

3 - Councillors' professional profile

3.1 - The councillors' professional activity

Nearly all of the Durban councillors interviewed have a high level of education, often to tertiary level, apart from the long-time activists (like the deputy-mayors of Outer West or North Central). The latter stated that he got "a Masters degree in life by working with the people". But one has to point out that most of the interviews were held with exco members and the level of education is not so high for 'non-exco councillors'. Some in Durban are even illiterate.[81] In the TLCs, apart from the white councillors who have received tertiary education (usually in a technical institution rather than in a University), the other councillors have spent in general only a few years at school, having to quit early in order to earn their living. This is all the truer in the rural areas where access to school is even more problematic.

[80] Interview with a provincial government official who wishes to remain anonymous. This is confirmed in the case of Greytown by councillor Ahmed Shaikh, who states that "the pre-interim council was run by the white mayor and the administration because of the lack of capacity of the other councillors." (Interview with cllr A. Shaikh, Greytown, 11.09.1997).

[81] Interview with a Durban city official (anonymous).

Table No. 11: Professional activity of the councillors interviewed

Type of local authority	teachers/ school principal	NGO	self-employed (in general own a small business)	insurance broker/ attorney/ farmer/consultant /manager/ librarian[82]	party official	no professional activity[83]	Total of cllrs interviewed
Exco cllrs directly elected in the RC and women representatives[84]	2	2[85]	3	2	1	2	12
Durban councillors	0	1	1	2	1	12	17
Medium TLCs' cllrs	3	1	4	3	3	2	16
Big TLCs' cllrs	3	0	3	3	1	2	12

According to the information gathered from officials and councillors,[86] most of the regional councillors are employed as teachers (according to a councillor, it is the case for 80% of the Zululand regional councillors), but the employment situation seems to be different from region to region.

In the Durban metropolitan area, councillors occupying the top four positions in council[87] are not working. In the Inner West local council[88] the mayor, his deputy and the chairman of exco are working full time for the council. This is explained by the amount of work expected from them. Most of these councillors had jobs before being elected (the mayor was a teacher and has taken long leave; the chairman of exco is an attorney and it is his wife who is running the practice).[89] But if one looks at the non-exco councillors, the situation is less rosy,

[82] Jobs in this category tend to be flexible and to allow the councillors to dedicate some time to their council work, during 'normal' working hours.

[83] This category has a different meaning according to the type of local authority. Regional councillors qualify themselves of 'unemployed' whereas Durban councillors are 'full-time councillors'. Most of those councillors, because they hold top positions, cannot work. Before being elected, they were teachers or nurses.

[84] Councillors representing the levy payers are in general farmers.

[85] One councillor interviewed works for an NGO promoting rural development and was elected on a non-political ticket. The second councillor is working for the National Business Initiative (NBI) and is a woman's representative.

[86] There is no comprehensive list of the councillors' professional activities.

[87] Mayor, deputy-mayor, chairperson or vice-chairperson of the exco

[88] Interview with Hercules Hattingh, CEO of the Inner West local council, Pinetown, 06.06.1997.

[89] Ibid.

especially among the black councillors.[90] In the North local council for example, according to the chairman of exco, "a lot of African councillors are unemployed."[91]

Finally, in TLCs, the level of unemployment of councillors depends on the economic situation of the town. Estcourt seems to be a typical TLC when it comes to the councillors' activity: on a total of 19 councillors, six are teachers, three unemployed, three self-employed, three in the private sector, two civil servants and one party official. In Richards Bay local council, most of the black councillors are unemployed.[92] In Eshowe, the mayor is a teacher (two others in council) and all the councillors are working.[93] In Ulundi, all of them are employed, thanks to the public service opportunities in this centre of administration.

The majority of the exco councillors interviewed spoke about their difficulties in combining their job and duties related to their council position. Some have abandoned their work to dedicate themselves full time to their elected office. This prompts questions on the nature of these council activities and the demands on councillors' time.

3.2 - The job of a councillor

When Barron et al.[94] try to define the different level of involvement (what they call 'political styles') of English councillors, they found that the nature of their work depends on the party directives, the laws, but also the definition given by the councillors themselves: "councillors develop a style which expresses her or his civic and political purpose."[95] Three styles of councillors were identified: some considered the council work as a hobby, others as a vocation and the third group as a job. According to this study, Labour councillors put more emphasis on policy-making, tend to specialise more on a subject (education, culture, economy...), and mention case work more often as one of their activities.[96] On the other hand, Conservative and Liberal councillors, when asked what their main activities are, mention overwhelmingly council attendance:[97]

> *Labour members saw their council work as a job... Conservatives were more sceptical about consulting with the public and stressed conscientious attendance at council and committee meetings.*[98]

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[90] In the Durban councils, the white councillors are in general employed. For example, according to Willmer, URF councillors "are all new in their posts. Two thirds of the candidates had degrees, half of them owned their own business. They are 'high standard' councillors. Most are active in church organisations." Interview with Brendan Willmer, chairman of the United Ratepayers Association, Durban, 15.05.1997.

[91] Cllr L. Naidoo, ANC chairman of the exco of the North local council and ward councillor, Umhlanga, 23.101997.

[92] Interview with cllr B. B. Biyela, mayor of Richards Bay TLC, IFP, Richards Bay, 16.07.1997.

[93] Interview with cllr S. B. Larkan, deputy-mayor of Eshowe, Independent, Eshowe, 15.07.1997.

[94] Barron et al., Councillors in Crisis, pp.156-179.

[95] Ibid., p.156.

[96] Ibid., p.158 and 160.

[97] Ibid., p.158.

[98] Ibid., p.179.

In South Africa, where ANC councillors dominate the majority of the councils,[99] the tendency to consider council work as a job is widespread. Just after the elections, local politicians have even called for the establishment of a "corps of career councillors" to be paid by central government funds. The suggestion intended to create a new layer of professional politicians and do away with the notion that council work is part-time and a contribution to one's community. The Interim Consultative Body (ICB) [100] specifically recommended that the metro councillors be regarded as full-time representatives who should receive an allowance/salary, medical aid and pension fund benefits.[101]

ANC councillors in voicing their demands about a new status for local councillors are not only representative of the left tradition, which can be found in England for example. In the South African context, black councillors are also at the forefront of the demands of their disempowered electorate. This is the principal reason why they feel the necessity to be recognised as "full-time professionals". The mayor of the Outer West local council stated that since the 1996 elections, "the role of councillors has changed dramatically with some having to commit themselves on a full time basis."[102] Nowadays, there is a new emphasis on the developmental role of local authorities.[103] In addition, councillors are the only public representatives elected on a ward basis, directly interacting with their constituency. It seems clear that councillors are expected to make up for the deficiencies of geographical representation in the national and provincial parliament. The national minister for Constitutional Development and Provincial Affairs, Valli Moosa acknowledged this during a local government workshop, saying that "ward councillors are subject to a lot of pressure from the community because they are seen as representatives on all matters."[104] Furthermore, the area covered by a councillor is bigger than in the old system. The ICB confirmed this, specifying that "a ward now covers an area previously represented by four councillors."[105]

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[99] Following the November 1995 local elections (which took place in all the provinces except the Western Cape and KwaZulu-Natal, the ANC received 66.37% of the PR vote and occupied 63.78% of the seats nation-wide. See Johnston A., Spence J. E., 'South Africa's local government elections', Briefing Paper, No. 27, Royal Institute of International Affairs, London, November 1995, p.1.

[100] The Interim Consultative Body for organised local government was the interim national association of local government. It was the predecessor of the South African Local Government Association (SALGA), launched in November 1996.

[101] The Mercury, 27.08.1996.

[102] Budget speech of the Outer West mayor (included in Minutes of the Council, 30.09.1996).

[103] The term 'developmental' encompasses many different notions. For instance, during a conference in Durban (Workshop organised by the Department of Local Government and Housing, Green Paper on Local Government, ICC, Durban, 28-29 October 1997) the term 'developmental' was defined as the promotion of:

- Economic growth;
- Social development;
- Integration and co-ordination of development;
- Democratic participation.

These notions are dealt with in detail in chapter 9.

[104] Workshop organised by the provincial Department of Local Government and Housing, Green Paper on Local Government, ICC, Durban, 28-29 October 1997.

[105] The Mercury, 27.08.1996.

However, it is important when one talks about the content of the councillors' duties, to differentiate between white and black councillors.

3.2.1 - A limited change for the white councillors

When white councillors are asked to describe the content of their activities for the council, it seems that little has changed compared to what a white local authority councillor would have dealt with ten years ago.

The principal explanation for this lies in the way wards were delimited for the first local elections. Councillors tend to represent racially homogeneous wards with largely different needs. A white ward councillor is focused on his white constituency[106] and is not confronted with needs other than cutting the verges or limiting the number of dogs in the area. An A ward councillor who spends "less that half of his spare time for the council", stated that:

> *... in my ward, little is asked for. For example, the council decided to cut down on the expenses of grass-cutting in order to stabilise the rates. I received a lot of complaints. My ward has everything and does not have any great expectation.* [107]

Opportunities for councillors to meet with their constituency are rare:

> *I do not spend time in my ward because my constituency does not ask for it. They just phone me when there is a problem. White people are not interested by council matters. I sent a letter after six months to the inhabitants of my ward asking them their feelings about their area. I had no reply.* [108]

PR councillors are in theory less attached to a specific constituency and are forced to consider the 'broader picture'. But in practice, with the exception of certain metropolitan councillors[109] or PR councillors who consider their towns/city as a holistic ensemble, it is very rare that white councillors mention activities in areas constituted of other racial groups that theirs.

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[106] Many TLCs (for example Mandeni and Ladysmith/Emnambithi) found it necessary during the first months of existence of the council, to organised a bus tour of the local authority to expose each councillors to the diverse reality of the new municipality. For example, an 'Operation Reach Out' was organised in the Durban metropolitan area. It is a series of trips to help councillors and council officials understand the difficulties experienced by people in disadvantaged areas. (The Sowetan, 15.04.1997)

[107] Interview with cllr Beningfield, chairman of the exco of Mandeni, Independent, Mandeni, 14.07.1997.

[108] Interview with cllr V. I. Webber, DP ward councillor, deputy-chairman of the exco of the Outer West local council, Durban, 10.06.1997.

[109] Cllr Pepler, ward councillor in Sherwood, works also in Inanda as a member of the Economic Development and Planning sub-committee of the metro. Interview with cllr Pepler, NP ward councillor, North Central local council, Durban, 15.05.1997.

The main activity for white councillors is to read the council documents and attend the sometimes very large number of committees on which they sit. For instance, Durban councillor Pepler[110] belongs to 17 committees:

> *Previously, we only spent a small amount of our time on the council. Now it takes too much of my time: the meetings are not really efficient. We began by having some 12 hour-meetings.*[111]

The only change such councillors have experienced is the amount of work they have to go through when they are elected on a PR list or when they occupy top council positions.[112] The mayor of Empangeni,[113] because of the changes in the nature of the function of mayor,[114] spends his time for the council (three to five hours a day) not as a ward councillor but as a mayor. The chairman of exco in Mandeni[115] was the only white councillor to mention difficulties in reconciling his work and councillor position. But it appeared that if he had more time, he would dedicate it to more meetings in council, or more work at home, studying the agendas and council documents, rather than in his ward. The researcher met particularly dedicated councillors like councillor Reid[116] who spends "six hours a day for the council (half of her time for the council and half for her ward): "I have to deal with three ratepayers' associations and sit on different kind of boards." But at the end of the day, white councillors' main activity is to sit in a council chamber and discuss policies.[117] Their main preoccupation is usually "to try to deliver as many services as possible for the cheapest price."[118] Some councillors[119] even view the council as a "business which provides services". The best way to provide services can lead to long and heated discussions in council but that does not entail a

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[110] Interview ibid.

[111] Interview with cllr R. Niemand, NP ward councillor in the Ladysmith/Emnambithi TLC, Ladysmith, 22.08.1997.

[112] Some councillors, because they are experienced in local government, are expected also to sit on numerous boards. Cllr J. P. Vos (interview with cllr John Peter Vos, NP, deputy-chairman of the iNdlovu regional council, Kokstad, 21.02.1997) does not spend most of his time for the iNdlovu regional council but attending meetings where he sits on behalf of the regional council: KwaZulu-Natal Town and Regional Planning Commission, the executive committee of the regional councils' association, SALGA, Kwanaloga (KwaZulu-Natal local government association) and the KwaZulu-Natal training board.

[113] Cllr D. J. B. Moffatt, mayor of Empangeni, independent, Empangeni, 17.07.1997.

[114] See below, paragraph 3.2.3.

[115] Interview with cllr Beningfield, chairman of the exco of Mandeni, independent, Mandeni, 14.07.1997.

[116] Interview with cllr P. Reid, DP ward councillor of the Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 21.01.1997.

[117] However, this can be very time consuming. So much so that the Inner West DP caucus complained to the exco about the numerous meetings and asked that executive decisions be taken during the standing committees. The ANC caucus refused because "we are on a learning curve". (Inner West local council, Minutes of the Exco, 04.03.1997).

[118] Interview with cllr D. A. Reyneke, NP PR councillor, exco member and leader of the NP caucus of the Ladysmith/Emnambithi council, Ladysmith, 21.08.1997.

[119] Interview with cllr V. I. Webber, DP ward councillor, deputy-chairman of the exco of the Outer West local council, Durban, 10.06.1997.

different kind of work than they were used to when they were white local authority councillors.

No white councillors have to go to the black areas and deal with the expectations of the community. "My job is to report directly to my ward and the NP voters in town."[120]

3.2.2 - A full time activity for black councillors

For all the black councillors interviewed, to be a councillor is a full time job, "otherwise it would be unfair to the community."[121] All the black councillors interviewed and half of the Indian ones wished that they could dedicate their full time to their council position:

> *I can manage to be a councillor and to work. This is challenging, but you have to be well organised. But I wish the job could be full time because coping does not mean that I do everything I want to do.*[122]

Some of councillors describe their activities as attending "all the committee meetings in order to get acquainted with all the municipal issues."[123] However, rare are the councillors who are so dedicated that they attend meetings they are not compelled to. They already spend too much of their time attending standing committees, full councils, special meetings on which they are nominated. But if for a ward A councillor, this is normal, for a ward B councillor, this leads to frustration, given the number of committees and sub-committees in some municipalities.[124] For example, Stanger councillor Roy Naicker[125] describes the problem in his council. The meetings are numerous and the decision-making process involves many committees, because of "the necessity to involve the majority of the councillors."[126] In Stanger, there is a meeting of a standing committee each day except Friday.[127] Standing committees' recommendations go to exco, which takes place every Thursday. Then they are considered by the full council (on the last Thursday of the month) which finally considers a resolution. In the TLC, there are also approximately 30 working groups ("catering", "allocations", "civic buildings"...) for 22 councillors. In addition, councillors sit on other bodies and also spend considerable time outside their TLCs. For example, the mayor of

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[120] Interview with cllr D. A. Reyneke, NP PR councillor, exco member and leader of the NP caucus of the Ladysmith/Emnambithi council, Ladysmith, 21.08.1997.
[121] Interview with cllr Sam Zwane, mayor of Mandeni, ANC, Mandeni, 14.07.1997.
[122] Interview with cllr R. Naicker, independent exco member of the KwaDukuza/Stanger TLC, Tongaat, 07.11.1997.
[123] Interview with cllr K. P. Chetty, ANC ward councillor of Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 21.01.1997.
[124] This is not a new problem. Purcell reports that in Durban, "in addition to the 11 standing committees, numerous sub-committees are generally created on an *ad-hoc* basis by each standing committee to report back on some specific issues." Purcell, Durban, South Africa, p.72.
[125] Interview with cllr R. Naicker, independent exco member of the KwaDukuza/Stanger TLC, Tongaat, 07.11.1997.
[126] Ibid.
[127] Cf. annexe XXI for a week schedule of the KwaDukuza/Stanger council meetings.

Kokstad,[128] attends meetings at the municipal level but he is also member of the iNdlovu RC, Kwanaloga exco and SALGA.

It is difficult for councillors to find a balance between council meetings and constituency work. The meetings are often unexpected, and councillors feel they do not have enough time for their constituency: "We think that council work is to take decisions in the chamber and that the constituency work can wait but it is not right."[129] Most of the interviewees feel that they do not stay in contact enough with their ward. They have to attend social events in their ward like graduations, sport matches, functions... and also give people, personal attention.[130] This is this personal attention and the type of issues councillors in black - and to a lesser extent Indian - areas have to deal with, that is specific. As communities do not really know what to expect from their councillors, their complaints do not always directly concern the local councillors. Chetty reports[131] that they range from the street lightning that does not work, to queries because people do not have the money to pay the rent, passport problems, problems of getting grants or pensions. It is obvious that the citizens do not succeed in identifying the proper responsibilities of councillors.[132]

A black councillor is also considered by his constituency in a way as the "father of the community" and he/she has to deal with totally different problems. A councillor specifies that:

> ... *for our* [black] *areas, the job does not consist only in going to the Town Hall, we also deal with social problems which is not the case for white councillors. I have to attend all the funerals. Because I am a councillor, I am the father of my community, they call me 'baba' even if I am very young. People ask me to explain their bills, call me for a burst pipe or ask to have a tap. I also deal with family quarrels.*[133]

The mayor of Ladysmith/Emnambithi confirmed[134] that he has to deal with private and sometimes violent quarrels: "people come to my home, before referring the problem to the

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[128] Interview with cllr M. Nyembezi, mayor of Kokstad, 21.02.1997.

[129] Interview with cllr R. Naicker, independent exco member of the KwaDukuza/Stanger TLC, Tongaat, 07.11.1997.

[130] Ibid.

[131] Cllr K. P. Chetty, ANC ward councillor of the Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 21.01.1997.

[132] In an attempt to make people more aware of what a municipality is all about, the Estcourt council proposed in its submission to the White Paper that "the Department of Education should introduce a subject on local government taught to scholars in order that the children are made aware of how a municipality functions." (Estcourt TLC, Discussion Document on the Local Government White Paper: Input from the TLC, 30.05.1997). Different initiatives are already in place. IDASA's training programme on local government targets councillors but is completed by a "civic education programme" directed at the 'communities'. They are taught about their duties, how a council works, the sources of its financial resources etc." (Interview with Mpilo Makywane, in charge of the KwaZulu-Natal local government programme in IDASA, Durban, 20.011997).

[133] Interview with cllr M. P. Kathide, ANC ward councillor, exco member of the Ladysmith/Emnambithi council, Ladysmith, 20.08.1997.

[134] Interview with cllr S. D. S. Vilakazi, mayor of Ladysmith/Emnambithi TLC, ANC PR councillor, Ladysmith, 21.08.1997.

police station. A councillor is a father." According to the mayor of Richards Bay,[135] this role of "elders of the family" played by the councillors is the result of urbanisation and the collapse of the social organisation.

In the metropolitan area, the same story was told by Durban councillors. North Central councillor M. J. Maphalala states that:

> *... in my ward, people are waiting in front of my door and I have to tell them something, give them advice or a latter appointment. I have to deal with all kind of problems, even domestic ones (private matters). It is worse when you deal with an informal area because people do not have services and no site, so they queue to have a site, water etc. When the shacks are falling to pieces, you have to do something about it: contact an organisation that could provide blankets or other help. People do not understand the definition of the job of a councillor. People assess you and if you are not reachable and do not deal with their needs, they would talk about you in the shebeen and say that you are useless.*[136]

In Phoenix, the expectations of the Indian population seem to be the same towards their local councillors. Cllr Mari mentions that:

> *... people are coming on a daily basis to talk about their rental, electricity, social problem, abuse... because they do not understand my function. They have no idea what I am here for. The councillors are contacted directly by the people before they phone officials. It is easier for people to contact us, especially when they are not educated.*[137]

In Tongaat, councillor L. Naidoo adds that:

> *People come to you and ask you about security problems, welfare... which are not our competence so we have to explain them. We are at the front line, people do not access their MP or MPP but us. The type of queries is different from one area to another. In Umhlanga it would be about crime or dirt. In Hambanathi, the development committee would speak about site allocation.*[138]

This disparity between the load of work between white, black and Indian urban councillors, bears a direct consequence on the position of their respective parties on the

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[135] Interview with cllr B. B. Biyela, mayor of Richards Bay TLC, IFP, Richards Bay, 16.07.1997.
[136] Cllr M. J. Maphalala, IFP ward councillor, member of the exco of the North Central local council, Durban, 11.06.1997.
[137] Cllr G. Mari, NP ward councillor, member of the exco of the North Central local council, Durban, 11.06.1997.
[138] Cllr L. Naidoo, ANC chairman of the exco of the North local council and ward councillor, Umhlanga, 23.10.1997.

allowance matter. 'White parties' are opposed to any increases. United Ratepayers' Federation chairman Brendam Willmer said[139] the allowances were outrageous: "ratepayers are being ripped off to the tune of millions by a self-serving, multi-party clique of professional gravy train politicians". The NP echoed this position. When the South Central and metropolitan councils voted themselves the maximum allowances, the NP dissented.[140] The same happened for example in Ladysmith/Emnambithi with NP exco members moving just after the election that exco members receive the same allowance as the other councillors[141] and even that councillors do not receive any allowance until the council is financially sound. The motion was defeated, the ANC arguing that exco councillors should be paid according to the time they spend and the work that is done. Opposing the white parties' stand, the ANC argues for a total shift from the 'colonial tradition'. Sutcliffe stated during a workshop, that the present system was based on the assumption that the money is an allowance because this job should be done on a voluntary basis (according to the old British colonial tradition), but now things were different:

> *... local government is a sphere of government with its own sets of responsibilities. We should move towards a much more full time activity and link the number of councillors to the number of public representatives in other spheres. The concept of voluntarism needs to be replaced.*[142]

This echoes the views of the White Paper on Local Government which states that:

> *... a more community-oriented political system could be built through reducing the overall number of councillors, and using the financial resources allocated to councillors to enable the appointment of an increased proportion of councillors on a full-time basis.*[143]

In rural areas, regional councillors are left more or less alone to define the scope of their activities. As they are less guided by the officials[144] they are basically free to "help their communities" in any manner. Those who used to be active in development issues before being

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[139] The Mercury, 06.11.1996.
[140] The Mercury, 22.10.1997.
[141] Ladysmith transitional local council, Minutes of the Council, 09.07.1996.
[142] Workshop organised by the Department of Local Government and Housing, Green Paper on Local Government, ICC, Durban, 28-29 October 1997.
[143] Ministry of Constitutional Development and Provincial Affairs, White Paper on Local Government, Pretoria, March 1998, p90.
[144] In regional councils (example in iLembe), the number of officials is kept to a minimum in order to dedicate more funds to capital projects. Councillors in rural areas have more difficulties in going to the headquarters of the regional council or in contacting officials than in urban areas. Besides, officials and councillors have fewer opportunities to meet during meetings because there are fewer committees and the full council and exco meet less often.

elected are continuing their projects. J. Luthuli[145] is a councillor who seems to ensure the continuity between his past role as an 'activist for development' and his new role as a councillor He works in the iLembe regional council with a minimum of means, towards the development of his area . He has a "councillor office given to [him] by the community" near a secondary school in Ndwedwe (west of Tongaat). In fact it is a little house with broken windows, furnished with a bench and two chairs. All the agendas and the council documents are piled up on the floor. His typical daily activities include helping people to get an ID card. He fills the forms for them and then goes to Durban to sort out the problems with the Home Affairs Department. He also identifies indigent people and tries to find help from the Welfare Department. He acts as a link between the rural people of Ndwedwe and the state departments.

He also feels responsible for monitoring the progress of development projects funded by the regional council:

> *I go to the liaison officer* [of the regional council] *and ask him about the progress. Sometimes I go to see the project and I look at what is going on. I then get the feeling of the community and if they are unhappy about something, I raise the issue during meetings or in front of the consultants.*[146]

Rural councillors can be very imaginative in initiating new projects. An example is one set in motion by councillor de Lange in uThungulu.[147] He is establishing a control centre for the region which will bring communication to the traditional areas so that they can stop the crime there. Previously, the emergency services never touched traditional areas.

However, these few examples are exceptions and most of the rural councillors, have only a limited understanding of how to use the institution they are supposed to head. This seriously limits their effectiveness. Among the exco councillors, few have the capacity to articulate a vision or simply to define what they want to do with the regional council, in short how to use this 'tool'. iLembe exco councillor J. Luthuli[148] is one exception but he is not a typical councillor. Few have been trained like him during his years as a shop steward in various fields such as communication, management and customer relations. An uThungulu exco councillor states that:

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[145] Interview with cllr J. Luthuli, exco member of the iLembe regional council (IFP) and deputy-chairman of the Ndwedwe sub-regional council, Ndwedwe, 06.11.1997. His communities' activities are not new and he did not wait to be a councillor to mobilise the community to build a school or a road.

[146] Ibid

[147] Interview with cllr de Lange, representative of the levy payers in the uThungulu regional council exco, Eshowe, 15.07.1997.

[148] Interview with cllr J. Luthuli, exco member of the iLembe regional council (IFP) and deputy-chairman of the Ndwedwe sub-regional council, Ndwedwe, 06.11.1997.

> *... local government was imposed on us without the necessary training. People want things now and we suffer from a lot of pressure. It is difficult for councillors to understand what is happening*[149]

Those words describe very well the situation in which non-exco regional councillors found themselves after elections. A regional councillor is only compelled to attend a few meetings a year[150] and it is up to him or her to be proactive in working to raise rural standards of living. If a regional councillor wants his/her position to become meaningful, he/she has also to get involved in the regional council life and influence the activities of the executive committee. Unfortunately, these principles are in general not really understood[151] by the non-exco councillors and the difference in the amount of time spent and in the responsibility between exco members and 'ordinary' (non-exco) councillors can lead to clashes. In the Zululand regional council, the exco members had to face a near 'revolt' from the 'ordinary' councillors who accused them of a lack of transparency.[152] It is true that there is a tendency for exco councillors to keep the information to themselves. According to an iNdlovu exco councillor:

> *... the problem is that the exco members do not like people from outside the exco to be involved because they think they are not up to date with the work of the exco and that they cannot adequately represent the regional council.*[153]

The situation is even worse in a uMzinyathi regional council, where the exco itself was considered too big, cumbersome and lacking expertise. An even smaller team composed of councillors and officials was established, officially to help the exco take decisions. The uMzinyathi "*ad hoc* executive committee" is an advisory work group with delegated authority to co-opt other members (specialists) if required. It functions on a permanent basis with delegated authority to consider matters of an urgent nature, regional planning, land availability studies, personal matters, and assists the CEO with agendas etc.[154]

In this context, where no effort is made to involve all the elected representatives into the political life of the regional council and where rural and urban councillors are left to define the content of their duties and the amount of time and efforts they should dedicate to their constituencies, it is no surprise that many criticisms are voiced against the councillors' accountability.

3.2.3 - The new role of the mayor

[149] Interview with cllr Dube (Mrs), representative of the women interest group in the uThungulu regional council executive committee, Eshowe, 16.07.1997.
[150] Interview with cllr J. Mayaka, elected as a development organisation member (Zibambeleni), councillor in the iNdlovu regional council, Wartburg, 05.03.1997.
[151] See for a detailed explanation, chapter 6 (pp.238-243) and chapter 8 (pp.310-314 and 317-319).
[152] Anonymous interview with a Zululand regional councillor.
[153] Anonymous interview with an iNdlovu regional councillor.
[154] uMzinyathi regional council, Minutes of the Council, 27.03.1997.

The changing duties and status of local government representatives are also expressed in the question of the role of the mayor. This issue has been debated for a long time. The traditional view was that the mayor is the ceremonial head of the municipality. As Purcell points out in the case of Durban in the 1970s:

> *Durban has a weak mayor system. The mayor is elected every year by the council from among its members. He presides over the fortnightly council meetings and has both a casting and a deliberative vote. He is member* ex officio *of all council committees. The powers of the mayor appear to rest more on personality characteristics rather than on the formal position.*[155]

During the pre-interim phase, local officials tried to maintain the idea of a ceremonial mayor. For example, the agenda (drawn up by local officials) of a special meeting of the Ladysmith/Emnambithi council held on 24 May 1995[156] specifies that the mayor "is a ceremonial leader, with very little executive power", that he "may not give orders to municipal staff but must do so via the town clerk or/and heads of departments", and that "he serves the entire community and should strive to be politically neutral."

But officials have to interact more and more with a new type of councillors whose main characteristic is that they want to take the lead in the decision-making process.[157] In some TLCs, the 'ceremonial' conception of the mayor's role has given way to a much more activist profile, driven by individuals with strong community presence and a determination to bring development and 'transformation'. In Mandeni TLC, mayor Sam Zwane, a prominent ANC figure in the area is 'running the local authority.' This means that he is not only chairing the council meetings but he is involved in an active way in technical issues as well as sensitive political ones. He is as committed to stop the killings in the Mandeni area as to implement affirmative action policies or speak about the economic development of the town. He is the one with whom all the decisions in council have to be discussed and who initiates many events.[158] The same happened in Pietermaritzburg with the then mayor Omar Latiff. The concentration of powers this seemed to entail, in the case of the Pietermaritzburg/Msunduzi TLC, has led to some sharp attacks in the press by a local DP councillor accusing the mayor of establishing a private municipal office around himself:

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[155] Purcell, Durban, South Africa: Local Politics, p.71.
[156] Ladysmith transitional local council, Agenda of the Council, 09.07.1996.
[157] See chapter 6 on the relationship between officials and councillors.
[158] According to the Mandeni CEO, the "mayor is very enthusiastic, takes a lot of initiatives and I have to be careful not to cool down his enthusiasm with what the ordinances say." Interview with Mr Press, town clerk of Mandeni TLC, Mandeni, 14.07.1997. See, for an example of mayoral initiative in Mandeni, the welfare issue in chapter 5, p.182-183.

> *... to attempt to kick start economic development. This seems to be an attempt to by-pass the Urbanisation and Economy committee and is a threat to the balance of power exercised by the mayor's office and the council committee elected to perform such functions. The drift in council to centralise power around the mayor and to decide matters behind closed doors is a very dangerous threat to democracy at local government level.*[159]

Mayors are still ceremonial figures in the sense that they attend functions, but the nature of the representation has changed. More and more, they are expected not only to be present for the opening of old age homes, but to promote their local authority in front of investors, even internationally.[160] With the new emphasis on local government as an actor in local economic development, councillors are supposed to attract businesses to their areas. The mayor of Durban, the economic heart of the province with a budget of more than R5.2 billion[161] is an important actor, on the same level as the premier, when it comes to the development not only of the Durban area but also of the province. He is part of the numerous delegations going abroad to look for foreign investors. The mayor of eThembeni (formerly Inner West local council) S'bu Gwacela, "aims to put KwaZulu-Natal's eThembeni on the map."[162] He spoke to the press about making the area a preferred industrial, commercial, residential, tourist and investment destination. The mayor of Ulundi sees his role as "promoting the development of the town and advertising it."[163] The Pietermaritzburg/Msunduzi mayor was given a mandate by the council to drive the Spatial Development Initiative (SDI).[164]

One of the consequences of these developments is that the clear difference which used to exist between the roles of the chairman of the exco and the mayor, is now blurred. The fact that in October 1997, the Pietermaritzburg/Msunduzi chairman of the exco and the mayor swapped their seats proved that each one of them could perform the duties of the other.

The debate over the changing role of the mayor has come a long way since the pre-interim phase. Today, at the national level, the White Paper on Local Government envisages the option of an "executive mayor" who would be able to appoint his/her cabinet and to make direct decisions. The mayor would be the chairman of the exco and would serve up to four years directly elected by votes.[165]

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[159] The Natal Witness, 07.08.1997, article written by cllr Radley Keys, DP councillor.
[160] Interview with cllr K. G. Rassool, deputy-mayor of Ladysmith/Emnambithi, ANC PR councillor, Ladysmith, 20.08.1997.
[161] Sutcliffe M., Further Research into metropolitan government systems, Pretoria, Department of Constitutional Development, June 1998, p.10.
[162] The Mercury, 04.03.1998.
[163] Interview with cllr Masongo, mayor of Ulundi, IFP, 22.07.1997.
[164] The Natal Witness, 21.08.1997.
[165] The Mercury, 10.03.1998.

4 - Level of councillors' capacity

4.1 - A difficult task for the councillors

4.1.1 - The challenges

The term 'capacity' should be understood here in terms of the councillors' ability to understand the local, provincial and national environment, in which they are working. It refers also to their ability to use their knowledge and position to influence this environment to the benefit of their local authority at large, and not only of their own community.

Political involvement, previous experience of local government, level of education and the type of occupational background, all influence the level of capacity of local councillors. This is not to say that, for example, illiterate councillors could not be 'good' councillors with strong interest in their constituency. Many local government officials confirmed that on the whole, "councillors are now more active than the previous ones in the council."[166] There are many ways of learning about government and the present councillors who struggled against the system during the apartheid years, had to become acquainted with the institutions which were in place and their logic. They thus gained an insight on their new position and ideas on how to transform it. But especially for councillors without a strong past of activism in politics, acquiring an understanding of their role is difficult.

Besides, the unchanged council procedures contributed to an intimidating atmosphere in which to develop new capacities. For example, the formality of the council rules was impressive at first, for the new Durban councillors. A city official states:

> *For the new councillors, it was very intimidating to go to the City Hall and comply with all the rules, the fittings, the language. That was a destructive process at the beginning. Councillors were too busy learning how to deal with the system to tackle the problem of development.*[167]

The rules were familiar to those who had occupied a council position in the white local authorities but they were unfamiliar to the majority of the new representatives. According to a Durban city official:

> *There is of course a major cultural shift happening for the councillors. They are being pushed into the operational style of the first world. They must attend meetings, they must arrive on time, they must follow the*

[166] This was the opinion of the CEO of the South and North Central local councils in Durban as well as the Mandeni CEO.
[167] Interview with Teresa Dominik, Urban Strategy Department, metropolitan council, 25.04.1997.

rules of order in committee meetings. They learn of their relative powerlessness as individuals.[168]

Besides, the channels through which the information is transmitted to the councillors are not adapted to the new councillors. All the council meetings are based on written material (technical reports, minutes and agendas). These are voluminous documents written in English. According to a Pietermaritzburg/Msunduzi official:

> *... before, you became a councillor because you were an influential member of a local association. It was an honorific post, a part-time job. All of the Pietermaritzburg councillors were doctors, property developers... who could put their expertise in the service of the working committees. The councillors would prepare the meetings very well, read their agendas, phone some officials to clear up a point. Now, councillors do not read anything and we waste a lot of our time before everyone understands the issue and comes up with a decision.*[169]

The already complex phases of decision-making have been made more cumbersome by the proliferation of sub-committees caused by the necessity for councillors to learn about the files, a lack of procedure control[170] and the mistrust between officials and councillors.[171] Councillor Reid shows her impatience but does not take into account all the difficulties faced by councillors. She only points out to the lack of preparation of her colleagues:

> *The DP is not liked in the council because we take strong positions about the efficiency of the council work. Councillors have to read their agendas before coming to any indaba.*[172] *The council cannot afford to wait until everyone is at level. I accept that there is a learning curve and I am also learning but the decisions have to be taken.*[173]

Coping with this unfamiliar environment and with the added stress of constituency demands put new councillors under much strain. Some interviewees appeared to be really tired of their job and even anxious about it. A Ladysmith/Emnambithi councillor qualified his position as "being a risk" for him. He wanted to resign because of the stress and because he no longer has a family life. He also received threats to his life, when an unpopular decision was taken in council. This has also happened to Wembezi (Estcourt TLC) councillors. The

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[168] Interview with Craig Alan, Strategic Planning Unit, Durban metropolitan council, Durban, 25.03.1997. The officials' assumptions about 'first' and 'third' world modes of operation reflect the gulf which exists between the new councillors and the officials who support them.

[169] Interview with Cynthia Harvey, Pietermaritzburg, 07.11.1996.

[170] The Ladysmith/Emnambithi transitional local council is famous for its very long exco meetings. During the first months of existence of the TLC, the exco which usually began at 5.30 p.m. lasted until 11.00 p.m. (Agenda of the Exco, 14.08.1996) or even 1.45 a.m. (Minutes of the Council, 25.09.1996).

[171] See chapter 6.

[172] An indaba is the name of the council's standing committees in the Pietermaritzburg/Msunduzi TLC.

[173] Interview with cllr P. Reid, DP ward councillor of the Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 21.01.1997.

decision was taken in Estcourt[174] to send a letter of accounts accompanied with a letter explaining the meaning of rates to each house in Wembezi. The ward councillors were supposed to assist in the verification of the identity of the occupants of the house. An employee had to deliver the accounts door-to-door. In fact, this resolution was never fully implemented because of threats directed at the lives of the municipal employees who were supposed to deliver the accounts and at the councillors.

Regional councillors are experiencing another kind of stress. They feel a lot of pressure from the community because their expectations are high. At the same time, they are learning that they won't be able to deliver because of the regional council's very limited resources.[175]

4.1.2 - Centre vs. periphery

It seems clear from interviews that the councillors who are the more influential are those who can make themselves familiar very quickly with issues, rules and procedures. For example, Outer West local council is said to be led by three councillors who do not really face any debate or challenge because their colleagues in the ANC caucus have only a limited grasp of issues.[176] However, the situation is slightly different in the two Durban Central councils. Even if there are in these bodies, illiterate councillors, the debates seem to be more frequent and more heated. The explanation might be that there are more councillors with an activist history or previous experience of local government in the North and South Central than in the 'peripheral' local councils. This division between 'centre' and 'periphery' is to be found also among the TLCs and RCs. In the same way as we can make a difference in the capacities of councillors between the two Central councils and the others in Durban (Outer West, Inner West, Northern and Southern local councils), the bigger the TLCs are, the more likely it is they will comprise people with a 'vision', an 'insight' in local government affairs, or simply 'leaders'. The struggle against apartheid took place in general in big towns and cities. In Ladysmith/Emnambithi for example:

> *Those who are educated lead the others. There is more expertise than in the smaller TLCs but still, there is not enough amongst the councillors. There is a huge discrepancy between those who lead, and the ones who follow. There are no more than five councillors in each TLC who have expertise. Apartheid denied the knowledge of the inside of local government. What is happening is that a few people have the knowledge and they are the teachers of those who do not know. It is still a learning*

[174] Estcourt transitional local council, Recommendations of the Special Exco Meeting, 27.05.1997.
[175] Interview with cllr J. Luthuli, exco member of the iLembe regional council (IFP) and deputy-chairman of the Ndwedwe sub-regional council, Ndwedwe, 06.11.1997.
[176] Anonymous interview with an Outer West local councillor. The same was said by councillors from the Ladysmith TLC and the Inner West local council.

process. In the first six months, councillors would not participate in the caucus debates and simply accepted the decisions. But councillors became victims of their position, tormented by people around them. People were asking for support from them and they would not know how to respond to it. After six months, they made constructive moves to understand the matters, the procedures. Now they make more input. Before councillors whispered, now they talk even if sometimes they do not make sense.[177]

The capacity of councillors depends also on the proximity of the local authority to the centres of power or communication lines. In Pietermaritzburg, where the provincial administration is located (including especially the Department of Local Government and Housing), the Pietermaritzburg/Msunduzi and the iNdlovu regional councillors are aware of every piece of legislation affecting them and are particularly vehement when it comes to contentious issues such as allowances.[178] On the other hand, Glencoe or Greytown councillors for example are much more remote from the centre of power and have less access to information. They are hardly aware of the provincial, let alone national (Green and White Paper on Local Government) transformation process which affects them.[179] They rely more on their own officials for this sort of information, the same officials who are often considered hostile to changes and not so trustworthy.[180] In smaller TLCs, there is an obvious problem for councillors understanding their council work, plus the obstacle of language. In these councils, more councillors are exclusively Zulu-speakers, for example in Estcourt.

It seems that political parties are conscious of this state of affairs and that they are ready to change their nomination process for the next local elections. In Ulundi, the council:

... needs more competent councillors and there will be a new selection process in the IFP for the next elections. People will be acceptable to the community but also competent, not like now. We made some mistakes in the last elections.[181]

Finally, the political composition of the councils has also an influence on the level of councillors' capacity. In iNdlovu regional council for example, the ANC councillors are dynamic and intervene in council on a lot of issues, thus training themselves through debates

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[177] Interview with a Ladysmith/Emnambithi councillor.

[178] These remarks are based on the researcher's observations. The Pietermaritzburg/Msundusi councillors as well as the iNdlovu councillors participate more in the discussions during exco meetings, even on fairly technical matters, than their small TLCs and other RCs' colleagues. In addition, they were able to answer during the interviews, some questions relating to IDPs, affirmative action policy, relationship with other spheres of government..., all issues that had not been answered in detail by most of the other councillors.

[179] Researcher's observations during the interviews.

[180] Ibid.

[181] Interview with an anonymous councillor.

on many local problems. It is the balance of power in this council between the ANC and the IFP that makes it worthwhile to debate some issues. In the other regional councils, where the IFP is dominating by far, opposition is unlikely to lead anywhere and the minority party is not developing any capacity to counter the majority caucus over political or technical issues.

4.2 - The specific problem of the regional councils

In regional councils, development of councillors' capacities is rendered even more difficult by the number of meetings they are committed to attending. 'Ordinary' councillors have only to be present at four meetings a year,[182] where they are told about the activity of the exco and once a year, asked to pass the budget.

Due to the very large number of regional councillors,[183] it has proved very difficult to include 'ordinary councillors' in the day-to-day work of the regional council. Apart for the exco members - but not all of them[184] - the reality of rural local government and the meaning of a seat in the regional council, are murky.[185] Some partial solutions have been found:

- In the beginning of 1997, the idea of dividing the regional councils in 3 to 5 sub-regions and to set up sub-regional offices in order to facilitate the liaison between councillors and the rural communities, was becoming a reality. The sub-regions are intended to become the first tier of government in rural areas;[186]
- Attempts have been made to involve as many regional councillors as possible in the meetings of those sub-regional committees. MEC Miller approved the reimbursement of travel allowances for regional councillors who do not sit on the sub-regional committee but who attend those meetings.[187] This is considered to be sufficient by 'old style urban councillors' who think that it is "their duty to attend because they are elected and they have to identify projects."[188] Little thought is given however to the

[182] When they attend them at all. There is a problem of attendance of regional council meetings. A regional councillor was very bitter about this, stating that "councillors come, sign and leave in the exco. In the full council, people are just going there to get lunch, sign the register, and steal the cups"(anonymous interview).

[183] Cf. chapter 2, pp.84-85.

[184] In the iNdlovu regional council, the fact that the agendas of the meetings are not properly translated into Zulu makes it difficult for some exco members to follow the debates. During an exco meeting, it was indicated by a show of hands that four members of the exco require a Zulu agenda. See Minutes of the Exco, 30.07.1997.

[185] For example, according to Shirin Motala the regional councillors in general did not know anything about the Provincial Growth strategy nor GEAR and did not have any idea in what kind of framework they were working. (Interview with Shirin Motala, Regional Consultative Forum, Durban, 1106.97. Her observations are based on the Siyimbumba workshops organised in the RC 1, 4 and 5 and aiming at establishing a dialogue between the 'rural communities' and the regional councillors).

[186] Interview with Mr Staniland, Department of Local Government and Housing, Pietermaritzburg, 20.11.1996.

[187] Interview with Mr Buks Pretorius, chief executive officer of the iLembe regional council, Durban, 05.09.1997.

[188] Cllr G. J. N. Meyer, NP councillor, member of the exco of the iNdlovu regional council and member of the exco of the Pietermaritzburg/Msunduzi TLC, 01.04.1997.

practicability of the councillors' attendance in terms of time spent on bad roads, the shortage of transport and the loss of income this could represent for rural people;

- Technical standing committees are also set up on different matters depending on the regional council. In uThungulu, an administration committee was set up as well as ones for finance, tourism and traditional affairs (the last one dealing with "welfare, education and health").[189] In fact, the majority of councillors who sit in these committees are exco members. In uThungulu, of 30 exco councillors, 21 of them belong to one of the five committees (comprising 12 members each), which means that only 19 new councillors are incorporated in the day to day work of the council;[190]
- In the agendas received by the 'ordinary' councillors before each council meetings, all the exco decisions taken and proposals made since the previous council are put for review (in English).[191] But due to the cost of such documents, the comments and details are kept to a minimum which does not help the understanding of councillors. Often, it is only the title of the resolution which is mentioned, with supporting documents only when it comes to tender.[192] It is difficult to see how it is possible in these conditions for a non-exco councillor to grasp fully the issues they are asked to approve;
- The uThungulu full council is kept aware of what is happening in the exco by the Uhlelo bi-monthly publication of the regional council (distributed to the councillors only). As it is the public relations officer who decides what to take from the minutes and what to add,[193] there is no comprehensive overview of the exco's activities. Besides, in a four-page bi-monthly document, the capacity for dissemination of information is rather limited.

The consequence of this lack of understanding and information is that debate is nearly non-existent during the council meetings, and the budget is passed in a few minutes. The quality of the caucus meetings is in this case even more crucial than in the TLCs. It is only during these meetings that rural councillors have the opportunity to ask questions and get clarity on issues being dealt with by the exco. But the big number of councillors in the IFP caucus (between 27 in uMzinyathi regional council and 136 in uThungulu) prevents real debates among the caucus members. The attitude of regional councillors when they attend the full council meetings is revealing. Most of them are carrying their agendas in unopened

[189] uThungulu regional council, Minutes of the Exco, 12.09.1996. In the uMzinyathi regional council, the different sub-committees are: Tourecon, TLC reps meeting, RDP committee, Traditional and Environment Affairs.
[190] Interview with cllr de Lange, representative of the levy payers in the uThungulu regional council exco, Eshowe, 15.07.1997.
[191] iLembe regional council, Agenda of the Council, 04.11.1997.
[192] uThungulu regional council, Minutes of the Exco, 25.03.1997.
[193] Interview with Mr A. M. B. Creighton, chief executive officer of the uThungulu regional council, Richards Bay, 18.07.1997.

envelopes under their arms when they enter the council chamber.[194] Looking at their faces, there is some doubt as to their real understanding of the issues being debated.[195] According to an exco councillor:

> *... the rest of the regional councillors are living their lives. Apart from their attendance at three council meetings so far, they do not participate in the full council debates, except when it comes to complain about their allowances.*

CONCLUSION

It is rather difficult to draw a profile of a 'typical councillor'. They are as diverse as the people of South Africa. We constantly had to navigate from urban areas to rural areas and even inside the same council, the differences are marked. Interviews were carried out with attorneys who had been sitting in council for more than ten years and with unemployed councillors who have not yet started to grapple with their tasks. What is certain, is that it is those men and women, who are expected to bring local development and local democracy to their community. However, considering the huge discrepancy of capacity which exists among local representatives in the same council, the political leadership of KwaZulu-Natal local authorities is dominated by a very few. Councillors who are really fulfilling their political roles are more likely to be exco members, who have a history of local political involvement and an understanding about how and where decisions are made. Their role is to understand their environment and influence the decision making process in other bodies in the provincial or national sphere. However, very few councillors are able to fulfil this task. This leads to frustrated councillors who provoke clashes in some cases (between exco and non exco members in Ulundi) or become apathetic (for most of the regional councillors). What is at stake here is the empowerment of every single councillor so that they can play significant roles. It might be ambitious for a first democratic mandate where people did not chose their councillors on efficiency criteria. But it is important for councillors to count on the genuine and structural help of their political parties and officials in order to grasp the local issues.

Apart from increasing councillors' capacities to make political decisions, one has to be careful that the councillors do not consider themselves as only representative of a specific section of the community, theirs. We have seen that ward councillors do not have any idea about what happens in the other wards and that very few PR councillors are willing to take into account their whole urban areas. The danger is that local councils become a place where

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[194] According to cllr J. Mayaka, (interview with Jutam Mayaka, elected as a development organisation member - Zibambeleni - Wartburg, 0503.1997) "there is a big problem for the councillors in understanding the documents given to them. They are huge and full of technical words."

[195] Researcher's observations.

partial and partisan views of what should be their constituencies are voiced, without considering that the communities are inter-dependent.

Chapter 5
Councillors' legitimacy contested by the communities

The big asset for the councillors elected in 1996 is that they "come from the communities", are "close to them and their needs", and "know what they want". Through the elections but also through their "leadership", councillors claim to be fully representative and as a consequence legitimate. This is the theory. In practice we have seen that the general profile of councillors in KwaZulu-Natal reveals that their involvement in politics is relatively recent. Besides, they are more familiar with resistance politics than issues relating to government and development. In this context, it would not be surprising if councillors had to face a contestation of their legitimacy[1] from what should be their main partners and supporters: the communities. In short, the legitimacy bestowed by open elections cannot be taken for granted.

Polls conducted before and after the local elections show that South Africans are generally suspicious of local government structures. In KwaZulu-Natal in particular, the interviews conducted for this study revealed that councillors and communities have difficulties in trusting each other.

Local councillors in South Africa have always suffered from a bad press and a bad image. This is because local government has never really been taken seriously at national and provincial level by what are now the others 'spheres' of government. Besides, since councillors are the public representatives who are "the closest to the people", they are at the same time more exposed to criticism. Their behaviour, inside and outside the council is watched and analysed frequently - even if by a small minority. But to this generally bad image inherited from the past, other features specific to the new dispensation can be added. First of all, what kind of legitimacy can a council enjoy when it does not have any means (technical as well as financial) to initiate and implement policies at local level? Secondly, councillors have to face other forms of allegiance which exist in urban (warlordism) and rural (traditional leaders) areas. In these circumstances, a councillor is seen as an extra - if not competing - source of power.

This contestation manifests itself in various degrees, ranging from verbal challenges, to refusal to abide to the council's decisions and even threats on the life of councillors. The controversial question of payment for services serves to focus these issues of contested legitimacy.

[1] 'Legitimate' is defined as "keeping with what is right or in accordance with accepted standards" (Webster's New Encyclopaedic Dictionary, 1996).

1 - A general uneasiness in the relationship between councillors and civil society

Floyd[2] reports in the 1950s that "the general public is inclined to think that all councillors are rogues or fools". Gotz[3] confirmed this statement: "for decades, local government has had poor image in virtually all South African communities".

1.1 - Feelings of the 'community'

1.1.1 - National polls

Polls conducted just before the November 1995 local elections showed that South Africans believed in the elections as a way of changing their lives. A national opinion survey conducted for IDASA[4] revealed that despite a strong general level of dissatisfaction about government (57% of the people were dissatisfied with how democracy worked and 46% thought that "most" or "almost all" government officials were involved in corruption), 71% believed that voting for local government officials was important and 69% felt that elections would improve local government.

On the other hand, the respondents seemed to believe that they could not really pressurise local government effectively. When people were presented with a list of alternative responses to local government decisions they were not satisfied with,

- Only 34% said the best response would be to "go to the next council meeting to complain" and 19% preferred to organise a petition;
- 22% said they would "wait until the next election to vote for someone else";
- The rest would choose more confrontational forms like not to pay rent (9%) and hold a protest march (9%).

On the eve of the first democratic local elections, the level of trust towards local government was not high: 33% expressed trust in the new local council, which was slightly better than for the provincial government (32%) but less than for the national government (45%).

However, one has to be cautious about those results because they do not tell us anything about the real level of awareness of the respondents. People might or might not express trust in their local officials, but it is clear that before the elections, few people knew what a local authority was and what the difference was between voting at local level and voting for any

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[2] Floyd T. B, Better Local Government for South Africa, Pietermaritzburg, Shuter and Shooter, n.d., p.132.

[3] Gotz G., Managing the Election: Responsibilities, Capacities and Political Will, Johannesburg, Centre For Policy Studies Research Report No. 43, October 1995, p.6.

[4] National opinion survey conducted by Market and Opinion Survey Ltd for IDASA between September and November 1995. See IDASA, Opinion Poll, Vol. 2 Issue 1, September 1996.

other sphere of government. Gotz quotes the local government campaign co-ordinator from Saatchi & Saatchi - the advertising company which conceptualised the national media campaign in 1995. The firm was well aware that local government had to "fight to be accorded its own value in the post-liberation context."[5] The campaign had to explain the distinctions between the value and function of local government and the national and provincial spheres:

> *What the advertisers were told is that many voters were deeply suspicious of local authority, either because they could not distinguish between it and the forms of government they had voted for last year or because of reactions either positive or negative towards the political context provided by existing forms of local government (chiefs, RSCs, civic and local development committees).*[6]

In fact the message of the advertising campaign was reduced to the strict minimum. It informed the voters that they could once again have a say in political affairs, but did not confront the complexity of the notion.[7]

Polls conducted in 1997 show that the general level of trust has not really improved. A survey conducted by the Human Sciences Research Council (HSRC)[8] states that most citizens have little faith in local government: 46% of the respondents said that local government was not able to solve community problems.

A more detailed view of the public opinion on local government is given by the Public Opinion Survey of IDASA.[9] The findings are that local government:

> *... is seen as the least responsive level or type of government in the country... receives the lowest level of trust and highest level of perceived corruption* [and] *the pessimistic evaluations did not differ according to rural or urban differences.*[10]

A racial breakdown shows that:

> *... Indian and white respondents displayed dismal evaluations of local government, low level of trust, responsiveness and job approval. African respondents... are relatively more positive. Yet in absolute terms,*

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[5] Gotz G., Buying in, Staying out: The Politics of Registration for South Africa's First Democratic Local Government Elections, Johannesburg, Centre for Policy Studies, Transition Series, Research Report No. 42, October 1995, p.60.
[6] Ibid., p.61.
[7] Ibid.
[8] HSRC 1997 survey: Attitudes to National Issues in South Africa. The countrywide survey was conducted among 2,197 respondents of 18 years and older in February 1997 and supplemented with selected survey findings from June 1997.
[9] The title of the study is "Idasa diversity and common citizenship study 1997". The fieldwork was conducted during June and July 1997 on 3,500 South Africans. For the findings, see Taylor H., Mattes R., 'Public evaluations of and demands on local government', Public Opinion Survey Reports (3), Cape Town, IDASA, 1998.
[10] Ibid., p.1.

> *Africans still hold fairly negative opinions about their local government.*[11]

The perceived legitimacy remains low in general. As an indicator, respondents were asked if they would accept a decision or policy of various government institutions even if they strongly disagreed with it. Just over half said they were likely to accept such a local government decision:[12]

> *Almost four-in ten (37%) openly said that it was not likely (23% said "not likely" and 14% "not likely at all"). As with other measures, local government legitimacy is lower than that for provincial government (59%), or national government (63%).*[13]

It is interesting to note that KwaZulu-Natal is the province where the level of legitimacy of local government is the lowest. Whereas in the other provinces, the local sphere receives 53% to 72% of favorable responses, only 50% of the respondents in KwaZulu-Natal are likely to abide by their local council's decisions.[14]

1.1.2 - In KwaZulu-Natal

1.1.2.1 - In rural areas

After the local elections, the new councillors and the organs of civil society (notably the development forums[15]) looked at each other suspiciously. There is up to today, a general sense of uneasiness in the relationship between the two. The lack of clarity concerning their roles and functions in the new 'democratic dispensation' has exacerbated certain tensions about who, between the development forums, NGOs, CBOs, traditional leaders or councillors, should be "the voice of the community". This leads to the contestation of the legitimacy of the new elected body. Some officials find it necessary to come to the rescue of the regional councils and to defend them against the attacks from development forums. F. Brooks, a Local Government and Housing official stated that in rural areas:

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[11] Ibid., p.3. The performance index calculated by IDASA (on a scale from 1 - the poorest rating - to 4 - the strongest rating) is a summary measure of job performance, responsiveness and trust. It corresponds nationally to an average of 2.17. For blacks it is 2.26, for whites 1.87 and for Indian 1.79.

[12] Ibid., p.8.

[13] Ibid.

[14] Ibid., graph 10.

[15] The membership of development forums is composed of organised business, individual entrepreneurs, organised labour, governing authority, political parties, CBOs, consultants /experts. Those forums are in general organised in plenary, standing committees and task groups. Due to the technicalities of the matters tackled, the experts are influential. See Wenzel P., 'The South African option. Development forums as civil society-run implementation organisations?', Urban Forum, Vol. 6 (1), 1995, pp.113-138.

> *... development forums or committees should 'be aligned' to the local government structure. We cannot afford conflict between the two. Structures should be recognised by local governments. Regional councils are elected bodies. Because of the ratio between the population and the councillors, some communities might feel that they are neglected but representation should not go through different bodies.*[16]

The traditional idea of legitimacy through the ballot papers cannot really be taken for granted by the regional councillors. A study done by consultants for the White Paper on Local Government[17] describes the elections in the uThukela regional council:

> *The level of registration was disappointing and only 40% of the registered voters went to the polls. Besides, a lot of ballots were spoilt. The representatives standing for elections were unknown in the rural communities who relied on their tribal chief to represent them.*

Interviews conducted by two NGOs in KwaZulu-Natal[18] about the communities' perception of rural local government reveal that the PR system for the election of regional councillor is synonymous with non-accountability. Parties are considered to have chosen the future councillors who "were not elected by the community". An interviewee from the Impendle area states that:

> *The community should appoint local government for themselves because if not elected by community, the communities do not know them and do not know who they should contact about their problems... The community should know people who are to be nominated for the coming local government elections.*[19]

Another interviewee confirms that:

> *... the government should be close to people and the councillor be elected by community members and should always be available when needed... councillors are politically elected... as a result even people not committed to community are part of government just because they belong to a certain party... Councillors should come from communities*

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[16] Statement of F. Brooks during the provincial workshop on the Integrated Rural Development Policy and White Paper for KwaZulu-Natal, Durban, 18.08.1997.

[17] This was one of a number of studies for the White Paper technical committee to feed it with examples about what is happening on the ground. The researcher had access to some of the confidential results without being able to identify clearly for each study case, the consultancy responsible for the study. The report on the uThukela regional council was elaborated in August 1997.

[18] Interviews carried out by AFRA and CASE about rural local government, in order to prepare their submission on the Green Paper on Local Government, November 1997.

[19] Ibid.

they represent and not be elected because they belong to a certain party.[20]

This feeling was confirmed by the members of the Regional Consultative Forum who stated during the AGM of the association[21] that "councillors are not democratically elected because they were chosen on a PR list... they are not our people". What is very worrying is that some rural councillors agree with this statement and acknowledge that they have a problem of legitimacy: "we were not elected by the people and we have to make ourselves known."[22]

1.1.2.2 - In urban areas[23]

In numerous instances, people express dissatisfaction with the work of their councillors.

Some complain about the councillors' lack of understanding of the local situation. For example, when Durban councillors put a lot of pressure on the economic development unit of the Durban metro to introduce economic activities in the townships, development forums contested the move, stating that:

> *... politicians did not understand what is happening in the townships. There is already plenty of economic activity. The problem is that small businesses do not get proper services (for example, the problem of frequent cuts in electricity for the butcheries).*[24]

The most common grievance is the lack of changes in the lives of the township inhabitants since the new elections[25] Communities do not hesitate in those cases to envisage the election of another councillor before the end of the councillor's mandate, because of his poor performance. In Enseleni (Richards Bay TLC), in July 1997:

> *... there was a meeting in the township. People told their IFP MPP that they do not want their councillors because they do not do anything for them. They do not hold any meetings, except B. B. Biyela. One*

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[20] Ibid.

[21] Annual General Meeting of the Regional Consultative Forum, 21.11.1997.

[22] Interview with an iLembe regional councillor.

[23] We are not talking here of places such as Ulundi, where the majority of the population seems totally unaware of the existence of a TLC. There, local government has simply no reality. Ulundi was a R293 township and never had a town hall. It is currently under construction. When the researcher arrived in Ulundi and asked for some directions from people in the streets to go to the town hall, she realised that nobody knew what she was talking about. When people asked her 'what is a town hall for?' she realised that she had some difficulty defining the place. She could not say 'it is the place where you pay rates' when nobody was ever asked to pay. To say 'the place where the council is meeting' would not have helped because meetings are closed to the public. To add 'the place where the technical services are' was useless because all the services used to be provided by the KwaZulu government directly. Add to that the potential of too much political interference from the provincial assembly in the development of the town and one can wonder about the real centre of power and decisions in Ulundi.

[24] Researcher's meeting with officials from the Urban Strategy Department, Durban, 25.04.1997.

[25] In Estcourt, "some councillors are despised because they are doing nothing for the community. People complain about the lack of ward meetings." (Interview with Angela Andre, Estcourt Peace committee, Estcourt, 08.08.1997).

councillor has even moved from Enseleni to Richards Bay without telling anyone. The people are shocked that he moved outside. People want to elect other councillors now but the MPP told them that they have to wait for the next elections.[26]

1.2 - Feelings of councillors

1.2.1 - In rural areas

The training sessions which targeted local councillors just after their elections, clearly revealed their uneasy relationship with organs of civil society. The problem ranked high among the rural councillors in the uThukela regional council exco.[27] According to them, the development forums infringed on the regional council's duties. On the second day of the training, councillors expressed their fear that:

The community has confidence in us but we start to wonder about the delivery... people are confused, they don't know who to believe: councillors, NGOs or development forums... development forums are not co-operating with the regional council because councillors are seen as stealing their powers.

Regional councillors continue to be suspicious of any initiative coming from the non-governmental sector or the community-based organisations (CBOs). The Regional Consultative Forum tried to organise workshops in the seven regional councils. They were labelled 'Siyimbumba' meaning 'we are united' and were aimed at building a better understanding between the rural communities and their councillors. The negative reactions of the councillors were summarised by one of the organisers:

The reaction of the regional councillors was 'who are you? who gave you the right to work with the communities? why did you have a meeting with the communities before and without us? are you trying to gang them up against us? ... We do not need you to bring capacity building to civil society, bring it to us because we are the people and we do not need strong civil society'. They do not understand why there is a need for the civil society to co-exist with the regional council and they think it is undermining them. In iNdlovu and uThukela, the councillors said that

[26] Interview with Mr Sipho Lukhele, Empangeni Peace Committee, Empangeni, 17.07.1997.
[27] Training of the uThukela RC: workshop about strategic planning, Ladysmith, 17-18 October 1996.

there was no need to create development committees 'We are the people' they said.[28]

Rural councillors are all the more ill-at-ease in that they do not have any precise constituency, since they are elected on a party basis. Councillor Seymour acknowledges that:

I do not have any constituency. I live in a farmers' area and they have the levy payers to represent them on council. The farm workers are ANC and do not trust me because I was elected on the IFP list... Besides, I am a white woman.[29]

This explains why some regional councils have tried to assert very quickly who is 'the boss.' In one of its resolutions, the uThukela regional council recognised the need to liaise with CBOs, NGOs, organised business and labour. However it re-affirmed strongly its responsibility in the decision-making process:

Civil society ... can be utilised by the council in achieving a broader perspective of needs in the region, but it can be concluded that the council alone represents inclusivity.[30]

1.2.2 - In urban areas

In urban areas, most of the councillors[31] feel threatened by development forums. One of the weaknesses identified by the Durban local councils during a SWOT[32] analysis was the fact that "some development forums are very powerful and they can cause problems. This affects the democratisation of local government and impedes local government action."[33] In the Durban areas, councillors are finding it very difficult to deal with what they consider as a 'screen', i.e. bodies which claim the right to 'filter the needs' of the grassroots and to represent them. Councillor Mari states that:

... development forums are another bureaucracy that we have to pay for. The forums want to dictate to councillors what to do. We are creating a

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[28] Interview with Shirin Motala, responsible for the Siyimbumba workshops in the Regional Consultative Forum, Durban, 11.06.1997.

[29] Interview with cllr Seymour, IFP councillor, member of the exco of the iNdlovu regional council, Pietermaritzburg, 26.03.1997.

[30] uThukela regional council, Minutes of the Exco, 29.11.1996.

[31] An exception among the interviewees was the mayor of the North Central local council: "councillors should not see themselves as superior, they should work with the development forums... they often promote partnerships between community and local government. They are good if they monitor, identify needs, if they promote people-centred development. They are the ears and eyes of the people on the ground". Interview with cllr Lydia Johnson, mayor of the North Central local council, ANC PR councillor, Durban, 08.05.1997.

[32] During this type of exercise, the Strengths, Weaknesses, Opportunities and Threats of a local authority are identified.

[33] SWOT analysis done for the Joint Councils of the Durban metropolitan area, Response to the Discussion Document. Local Government White Paper Process, May 1997, p.6.

parallel council and they became like gate-keepers, trying to play a role between us and the community. [34]

In the Durban metropolitan area, development forums are considerably more developed than in the rural areas. They can be very powerful, in terms of technical expertise and the resources they mobilise. This is the case of the Inanda development forum (IDF) which was established in March 1994 as a partnership between the community (civic and land owners), the Durban city council (now North and South Central) and the province.[35] It is a body which employs 28 community development workers selected from 28 areas of Inanda and who have benefited from an eight-month training period.[36] The forum has received large amounts of money, especially from the province and the council.[37]

Councillor Maphalala expresses his uneasiness about the Inanda development forum:

Development forums ask the councillors to report to them and so I become accountable to the forum and not to my constituency. They cover also a huge area and it is a parallel structure which is confusing people... People are confused in Inanda and they do not know who to go to when they need help. Furthermore, those people who sit in the forum have got [technical] *knowledge and you have to be very brave to sit there as a councillor because if you do not know what they know, you look like a puppet... But the councillors have to be seen sitting in the forum because they are delivering and we want to be re-elected.* [38]

In its application for grants to the Durban central councils in August 1996, one can measure the potential threats posed by the forum to the local councillors. The first threat is about the roles and functions the IDF claims to assume:[39]

- Management and monitoring of the council investment in Inanda by ensuring full community participation;
- Participation in the resolution of conflicts and in building the capacity of local structures to promote unity and tolerance.

If development forums' interventions are legitimate when it comes to increase popular participation in the decision-making process,[40] problems tend to arise when they claim to deal

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[34] Interview with cllr G. Mari, NP ward councillor, member of the exco of the North Central local council, Durban, 11.06.1997.
[35] Metropolitan council, Agenda of the Exco, 23.01.1997.
[36] Nene B., Building an Understanding on Community-Based Development Fora, Urban Strategy Department, Durban Metro, January 1997, p.10.
[37] R952,000 was the amount paid to the forum in 1995 and again in 1996 by the North Central council. See North Central council, Minutes of the Council, 10.12.1996.
[38] Interview with cllr M. J. Maphalala, IFP ward councillor, member of the exco of the North Central local council, Durban, 11.06.1997.
[39] Metropolitan council, Agenda of the Exco, 23.01.1997.

also with the implementation of projects or the co-ordination of development activities. Co-ordination between the local actors of development and between the different spheres of government, is widely seen[41] as one of the most important functions of local government and justifies their leading role in local economic development.

The second threat lies in the internal organisation of the body which is the same as the council's. The application form states that:[42]

- The IDF has 15 members in its exco, democratically elected by the IDF conference;
- The IDF plenary comprises two representatives from each of the 32 areas or districts identified as a coherent unit comprising the Inanda area. It is the highest decision-making body;
- There are portfolio committees;
- The IDF also proposes to launch offices in each ward for local development forums.

Having adopted a type of organisation similar to the local authority's this can only increase the confusion of the population over who is finally responsible and legitimate to take a binding decision over the development of Inanda. In addition, the IDF budget shows that the chairperson and the general secretary of the forum are full-time employees (with a salary of R2,750 per month). The members of the IDF exco are paid an allowance of R660 and the representatives of the 32 areas composing the forum, an allowance per plenary of R88.

The IDF, because of its internal organisation and the fact that it remunerates its members, looks like a parallel local government structure and it is suggested that this trend goes a step further. Its application for funds mentions the necessity for future discussion on a document which proposes a 25c share in each rand paid by Inanda residents for services to assist the IDF.

There is clearly a possibility that the forum might become much more efficient than the ward councillors (notably because of the 'professionalism' of its members), that a tax be introduced on the services for the IDF in concurrence with the council, and that the IDF will become a delivery mechanism while the legitimacy of the councillors fades. Such a development would undermine the statutory representative structures of government.

Considering the lack of means at their disposal,[43] it is not surprising that councillors feel threatened When the IDF submitted its grant application to the North Central council, a

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[40] Cf. chapter 8, pp.308-309. At a meeting held on 26.09.1996, the South Central local council considered an item entitled "Local government assistance to development forums: current practices, its contribution to sound governance and a suggested approach". Thereafter, the exco stated the need to "acknowledge properly constituted development forums as organs of civil society that can play a key role in facilitating community participation, ... and support local government in responding to the needs of communities within the area of its jurisdiction". (South Central local council, Agenda of the Exco, 20.02.1997).

[41] See Ministry of Constitutional Development and Provincial Affairs and the White Paper Political Committee, White Paper on Local Government, March 1998, p.19. The document strongly emphasises the link between 'developmental local government' and its capacity to promote 'integration' and 'co-ordination'.

[42] Metropolitan council, Agenda of the Exco, 23.01.1997.

[43] For instance, in the North Central local council, temporary accommodation was given for the Ntuzuma councillor in a disused garage. (North Central council, Agenda of the Exco, 04.02.1997).

working group composed of officials and councillors was formed to look into the matter. It found that the IDF had a facilitating role in Inanda and played the role of a link between the councillors and the community, but that "there could be duplication vis-à-vis the development workers and the ward councillors."[44] Councillor Mari pointed out that "there is no money for them. I suggest that the IDF cut on their human resources in the light of the existence of ward councillors."[45] This was not adopted.

Several possible explanations can be put forward to account for this difficult relationship between the councillors and the 'communities'. The press is a very negative factor. Due to a lack of communication on the part of the council, most of the information received by citizens comes from local newspapers. These tend to look for "stories that sell" rather than "success stories". More importantly, structural problems are preventing the councillors from meeting the expectations of the citizens and legitimacy is closely related to performance. Lastly, in urban and rural areas, other kinds of allegiance than that owed by the citizen to his/her councillor can be prevalent.

2 - Some explanations

2.1 - The role of the press

2.1.1 - The bad image

The press in KwaZulu-Natal tends to treat local councillors like irresponsible children, especially when it comes to spending council money. The problem of the determination of councillors' allowance has been widely covered by the press. This gave the opportunity to portray the councillors as travelling on "the last carriage of the gravy train". The extent of councillors' earnings, according to status in council and to the type of local authorities he/she sits on, have been widely publicised. The opinions of MEC Miller on this matter were prominently displayed in the newspapers and his assertions contributed a lot to the bad image of councillors.[46]

The issue of allowances occupied most of the press reports dealing with local government in 1996 and the beginning of 1997. Councillors were portrayed as only wanting to get the maximum benefit out of their position. This is even the feelings of some white councillors (whether coming from the DP, NP or even the IFP) when they talk about their black

[44] North Central council, Minutes of the Council, 10.12.1996.
[45] Ibid.
[46] One of Miller's typical assertions is: "many new councillors are more interested in increasing their allowances than in their work" (The Mercury, 06.02.1997) or - after the Kokstad council voted its mayor a double allowance for occupying the positions of mayor and chairman of the exco - "this is theft... they will be running foul of the auditor-general" (The Mercury, 27.02.1998).

counterparts. Typical comments of interviewees included: "people wanted to be on council for private interests. They wanted money. Even when the councillors have got a job, the allowance is a nice plus." The local authorities which have refused to embark on a large scale allowances increase receive less attention. In Bergville, councillors did not vote themselves any allowances[47]. In Cathkin Park[48], councillors took the same decision and are being refunded for their expenses only. In Empangeni[49], the councillors voted themselves the minimum amount. The mayor's allowance is half than what he used to receive in the previous council.

In any case, matters of money are not restricted to the problem of allowances. The handling of a mayor's civic budget also offers opportunities to criticise the new councillors and brand them as irresponsible spenders. One report[50] stated that South Central Mayor Theresa Mthembu:

> *... has exhausted her civic hospitality budget just four months into the current financial year. She asked for further money from the exco to fund further civic receptions. The chairman of exco said that this was under discussion but said that additional money to redecorate her parlour was granted.*

In this, as in all other instances of critical stories about councillors, their negative image was reinforced by bitterly hostile readers' letters to the paper. While it is the right - even the duty - of a free press to be critical of elected representatives, it can be argued that councillors receive an unduly negative press which does not take enough into account the under-resourced nature of the job. Certainly, this is the impression held by councillors themselves.

2.1.2 - The perception of councillors

All the local representatives interviewed agreed that the press gives an unduly hostile image of local government.

Some councillors see in this a way of advancing certain political agendas:

> *The press is biased: they are undermining the ANC because the journalists are NP or DP aligned.*[51]

Usually the confrontation is unavoidable:

> *Most of the time, the press articles are "horrendous" and harm the council. Councillors had meetings with the editors of the newspapers*

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[47] Interview with Ms Hughes, town clerk of the Bergville TLC, Bergville, 29.10.1996.
[48] Interview with cllr Reg Strol, councillor in Cathkin Park, 26.01.1997.
[49] Interview with cllr D. J. B. Moffatt, mayor of Empangeni, Independent, Empangeni, 17.07.1997.
[50] Saturday Paper, 15.11.1997.
[51] Interview with cllr C. M. Sardiwalla, ANC PR councillor, exco member and leader of the ANC caucus of the Ladysmith/Emnambithi council, Ladysmith, 21.08.1997.

concerned and could also go in the future to complain to the press council.[52]

Only a few local councils are trying to find ways to improve their relationships with the media. The Durban metropolitan council embarked on a major public relations exercise to show the media where the region's priorities were and where the bulk of the money was spent. Margaret Winter, chairperson of the Durban metro exco, said that the press has not been properly informed in the past about the socio-economic problems facing the region.[53] Clearly, the metropolitan council considers it important to improve the image of councillors and explain the realities facing the newly-elected representatives.

2.2 - Structural problems

There is strong evidence that South Africans are basing the perceived legitimacy of local government on their evaluations of local government performance. Statistical analysis yields a Pearson's correlation coefficient of r =0.49 between legitimacy and the performance index, which indicates a very strong relationship: in other words, the more people approve of the performance of their local government, feel it represents them, and trust it to govern well, the more legitimacy they grant it [as expressed in terms of willingness to comply with unpopular policies].[54]

2.2.1 - A problem of resources

There is a huge gap between the needs of the people, their expectations and the councils' financial capacity. This leads to much frustration and can partly explain the bad image of local government and local councillors.

2.2.1.1 - In urban areas

The problems of establishing local government as a legitimate level of governance are particularly difficult where there are substantial operational difficulties and/or low levels of resources. These include:

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[52] Interview with Mike O'Meara, CEO of South Central and North Central local councils of Durban, 14.02.1997.
[53] The Mercury, 21.01.1997.
[54] See Taylor, Mattes, Public Opinion Survey Reports (3), p.8.

- TLCs/TMSs which became fully-fledged municipalities in 1996 but which do not have the requisite resources;

For example the Louwsburg TLC in the Zululand regional council, had no staff at all at the beginning of 1997. The secretarial and financial municipal services were done by Vryheid TLC's officials and some contractors provided the services.[55] Hattingspruit TLC, the smallest local authority in the province, had a 1996/1997 budget of R85,000.[56] In Winterton, six months after the local elections, there was still no town clerk. The mayor had to fulfil his political function as well as the technical role of a town clerk and the total number of staff was three.[57] Financial problems are not confined to the small TLCs. In the Durban area, the Outer West local council is the one with the weakest tax base. It includes the wealthy residential areas of Kloof and Hillcrest but has no industrial rates base[58] and inherited Mpumalanga township as well as a large tribal area. In the first budget, it was estimated that a 59% rates increase was necessary for the council to be able to balance its books.[59]

- Former R293 townships: the problem of levying rates;

The newly incorporated areas are a potential source of revenue for the council. It was expected that in Durban, R40 million a year would be collected once the township properties (in the former R293 areas) had been added to the city's valuation roll.[60] But this involves the tremendous task of rating all the properties and compiling the valuation roll for those properties which have never been rated before.[61] The other obstacle is the fact that those areas (in Durban they correspond to Umlazi, KwaMashu and Ntuzuma) fall under the Ingonyama Trust Act.[62] The two central councils had to wait for a provincial proclamation so that people who hold title deeds and have permission to occupy the properties could be charged rates. Although the King granted permission to local mayors for the collection of rates, a legal proclamation had to make it effective The KwaZulu-Natal Ingonyama Trust Amendment Act was promulgated in the Government Gazette of 11 April 1997, repealing the Act for land in

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[55] This is according to the Lowsburg's answer to the questionnaire sent by United Towns Development Agency to all the TLCs in the province about their development needs (October 1996).

[56] See Hattingspruit's answer to the questionnaire sent by United Towns Development Agency to all the TLCs in the province about their development needs (October 1996).

[57] Interview with Tony Cole, mayor of Winterton, 24.11.1996.

[58] Hammersdale is the only industrial area in the local council but has been stagnant and has even lost business, partly because its location defies market norms and partly because the industries located there are now exposed to unconstrained competition following the trade liberalisation.

[59] The Mercury, 09.08.1996. This increase was avoided thanks to a grant from the metropolitan council of R6.5 million which funded the entire capital budget of the local council for 1996/97. (Budget speech by the Outer West mayor, in Minutes of the Council, 30.09.1996).

[60] The Mercury, 15.11.1996.

[61] Cf. chapter 1, pp.25-27.

[62] The Ingonyama Trust Act is the result of a deal struck shortly before the 1994 elections between the NP and the KwaZulu governments, ensuring that the control over most of the land in the homeland would be vested outside the national, provincial or local government. The Act transferred 93% of the territory of the former KwaZulu to the Ingonyama Trust, including land in urban townships, government buildings, commercial and industrial sites, roads, dams, parks. According to the Act, property owners in the affected townships hold grants of deed as opposed to title of deeds, because their land is "co-owned" by the trust's administrator, King Goodwill Zwelithini.

townships, but "it will come into operation on a date to be determined by proclamation by the President."[63] When it was time to consider the new 1997/1998 budget, the problem had not been resolved. A Durban Treasury Department document stated[64] that a total cut of R183 million worth of existing and new proposed projects would be necessary, if the annual rates increase was to be kept to 12%. The need to defer the payment of rates by township residents was one of the factors affecting the rates base.

- The problem of non-payment of services is an important operational difficulty and will be dealt with below.

2.2.1.2 - In rural areas

The White Paper on Local Government states that "the limited powers and resources of rural municipalities, and their consequent inability to serve local communities, have diminished their credibility. This poses a threat to the future development of local government in these areas."[65]

In the regional councils, the financial situation of rural local government is alarming. While the regional councils in KwaZulu-Natal are not in debt[66] and are very careful not to spend more than they can afford,[67] their income is quite inadequate for their spending needs.

High administration costs in some instances leave little for project expenditure. This has been caused in some regional councils by the split of the former JSB into two new entities.[68] In uMzinyathi[69] the cost of this decision was high. The operating expenditure doubled because of the rental of new buildings, employment of new staff and the allowances of councillors. This had a big impact on the regional council's capacity to finance new projects. In the iLembe regional council, which had to set up a totally new administration:

> *... the total administration expenditure in the 1997/1998 budget, represents nearly 55% of its total income. This is due to a council*

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[63] Letter to the KwaZulu-Natal local authorities from Kwanaloga entitled "The KwaZulu-Natal Ingonyama Trust Amendment Act, 1997", in iNdlovu regional council, Agenda of the Exco, 19.06.1997.
[64] The Mercury, 22.07.1997.
[65] Ministry of Constitutional Development, White Paper, p.7.
[66] According to Mr Singh, Head of the Finance Department in the iNdlovu regional council, most of the regional councils in KwaZulu-Natal are in a good financial state. The JSBs have been accumulating since 1990, levy income without being able to spend it wholly until the structures were functional. Mr Singh does not foresee major financial problems for the province's regional councils in the next three years. Telephonic interview with Mr Singh, 07.06.1998.
[67] This is explained by the strong control by the national Ministry of Finance (which only allowed for an 8% increase for the 1997/98 budget of all local authorities compared with the precedent year), coupled with a strong stand by MEC Miller on the question of allowances. Moreover, the amount of money collected thanks to the two levies on which the regional councils depend, is increasing because of improved control measures. Lastly, the regional council does not suffer from unpaid rates or unpaid service charges.
[68] See annexe II.
[69] Interview with Mr Winston Mngomezulu, CEO for the uMzinyathi regional council, Ladysmith, 16.05.1997.

consisting of 235 members, five standing committees and an exco. We need to approach the provincial and national governments for financial assistance.[70]

But the real financial problem in the rural areas is the lack of income. The tariff of levy income has not been reviewed since 1991 While the cost of the administration is increasing, income is constant. According to the uMzinyathi CEO, the situation is critical:

Soon we will not have any money for projects. We are not allowed to raise our levy. We must ask the permission of the [national] *Finance Department which is very careful because if we raise taxes we kill the business which we need.*[71]

A solution might be to set up a rural tax. The Land Tax sub-committee under the Katz Commission is currently considering the possibility of introducing a local land tax in the rural areas.[72] According to the sub-committee, this would:

- Raise much needed revenue for rural local authorities;
- Give fiscal autonomy;
- Improve equity between rural and urban areas.[73]

But because of the poverty of the rural population, "the total amount [of a rural tax] raised would be limited."[74]

While we have seen the poor financial capacity of regional councils, they create tremendous expectations amongst the rural communities. For example, they send application forms to the 'communities' so that they can express their needs. But the funds are simply not available. In iNdlovu regional council,[75] the total value of the applications for funds received for the 1997/1998 budget was R356,503,000, whereas only R33,698,000 was available for projects.[76] The situation is worse in other regional councils such as iLembe. In the 1997/98 budget it received more than 600 project applications totalling R700 million. "With the

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[70] iLembe regional council, Message by the Chairman- Councillor C. B. Ngiba, Budget 1997/1998, 30 June 1997.

[71] Interview with Mr Winston Mngomezulu, CEO for the uMzinyathi regional council, Ladysmith, 16.05.1997. The levies are a tax on staff and labour and this reinforces the bias against labour-intensive firms.

[72] Muller A., 'An international perspective on land taxation', Paper delivered during the Conference organised by the Fiscal and Financial Commission Designing Local Government for South Africa: Structures, Functions and Fiscal Options, 23-25 July 1997, p.25.

[73] Ibid.

[74] Ministry of Constitutional Development, White Paper, p.118.

[75] iNdlovu regional council, Proposed Project, Administration and capital expenditure estimates, 1997/1998, Presented by: Chairperson J. M. A. Ngcobo, 29 May 1997.

[76] According to an estimation of the sum needed to meet the backlogs in the iNdlovu regional council, the local authority needs R1.58 bn for infrastructure and services and R1.43 bn for community facilities (Natal Witness, 18.03.1997).

available funds we could only address 1% of the need of the region."[77] In Zululand, for the 1997/1998 budget,[78] the projects which the regional council was able to fund amounted to R1.7 million.

In those circumstances, the prioritisation process and the debates about allocation of the local authority's funds rapidly take on a farcical quality. In the Zululand regional council, the money was just sufficient to build a few community halls, ensure the sanitation of three schools and contribute to an emergency fund.[79]

2.2.2 - The gap between the expectations and the local government's functions

The powers and functions of local government are spelled out in the 1996 South African constitution:

> *A municipality has executive authority in respect of, and has the right to administer -*
> *(a) the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5; and*
> *(b) any other matter assigned to it by national or provincial legislation.*[80]

The list of functions[81] shows that local government is mainly expected to provide and maintain basic services and facilities (water, electricity, refuse removal...) and control certain activities (for example building regulations). The only initiating role attributed to local government is "the promotion of tourism"[82] and the only activity related to welfare is "the provision of child care facilities."[83] Despite the fact that during the first two years of its existence, the discourse on the role of the local sphere has evolved tremendously and that municipalities are innovating in this domain,[84] there is still a gap between the expectations and the functions.

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[77] iLembe regional council, Message by the Chairman- Councillor C. B. Ngiba, Budget 1997/1998, 30 June 1997.
[78] Zululand regional council, 1997/1998 budget, (approved the 12.06.1997).
[79] Zululand regional council, Agenda of the Council, 12.06.1997.
[80] Constitution of the Republic of South Africa, Chapter 7, section 156 (1), 1996.
[81] See annexe XXII for the list of the functions.
[82] Constitution of the Republic of South Africa, Schedule 4 Part B.
[83] Ibid. Municipalities have the constitutional power to provide child care facilities and may provide grants to associations for this purpose in terms of the Child Care Act, 1983.
[84] This will be dealt with in chapter 9.

2.2.2.1 - The expectations of the population

According to the IDASA survey on the 'Public evaluations of and demands on local government':[85]

> *In 1995 and 1997, we asked people to name the three most important problems that they felt their national and then local government should address... Three of the four most frequently cited demands (job creation, housing and crime control) are areas which local government may not be authorised to address in terms of constitutional or legislative constraints. This reveals a serious mismatch between what constitutional designers think local government is about, and what people think local government is about.*[86]

The three following IDASA tables from the same study illustrate the expectations of the communities towards local government.[87]

Table No. 12: The Three Most Important Problems Facing the Community in 1997 (by Province, in %)[88]

	Western Cape	Eastern Cape	Northern Cape	Free State	KwaZulu /Natal	Nort h West	Gauteng	Northern Province	Mpuma-langa
Jobs	**34**	**39**	**50**	**57**	**41**	29	27	20	**35**
Housing	**40**	29	24	**41**	**44**	27	**35**	19	**34**
Crime \security	**31**	26	**41**	**38**	**45**	**32**	**57**	21	19
Services	13	**39**	22	**40**	27	**39**	**45**	**50**	**49**
Education	9	15	22	8	24	18	10	17	11
Violence	9	2	4	3	6	4	6	1	2
Water	3	**36**	3	4	9	**26**	4	**45**	**30**
Health	11	19	20	2	18	10	8	6	16

The three problems quoted most frequently by KwaZulu-Natal's residents are employment, housing and crime/security.

[85] Taylor, Mattes, Public Opinion Survey Reports (3).
[86] Ibid., p.4-5.
[87] The tables No. 12, 13 and 14 are extracted from the Taylor, Mattes, Public Opinion Survey Reports (3).
[88] In the tables 12, 13 and 14, the responses added up make more than 100% because three responses were allowed.

Table No. 13: The Three Most Important Problems That Government Should Address (in %)

	National Government		Local Government	
	1995	*1997*	*1995*	*1997*
Jobs	**77**	**69**	**56**	**34**
Housing	**53**	**43**	**47**	**34**
Crime / security	**32**	**58**	**37**	**38**
Services	6	6	29	**37**
Education	20	19	19	15
Violence	35	9	19	5
Water	5	5	10	17
Health	8	10	11	12
Electricity	2	7	7	15

Nationally, the respondents believe that local government's functions should principally deal with crime, provision of services, employment and housing needs. However, the respondents attribute the same roles to national government.

Table No. 14: The Three Most Important Local Problems by TMC / Urban / Rural Distinction (1997)

TMC	Urban	Rural
Crime/Security (53%)	Jobs (42%)	General Services (42%)
Housing (41%)	Crime/Security (40%)	Water (41%)
General Services (35%)	Housing (35%)	Jobs (32%)
Jobs (31%)	General Services (35%)	Housing (27%)
Education (13%)	Education (14%)	Crime/Security (18%)
Health (10%)	Electricity (11%)	Electricity (18%)
Electricity (8%)	Health (10%)	Education (19%)
Violence (6%)	Water (8%)	Health (16%)
Water (4%)	Violence (6%)	Violence (2%)

Whether in metropolitan, urban or rural areas, the South African respondents expect local governments to provide a secure environment, job and services, but in different orders of priority.

These findings were confirmed by the interviews held in KwaZulu-Natal for this project. The expectations of citizens are extensive and local councillors are the elected representatives to whom they are largely directed. People are not aware of the different functions assumed by the three spheres of government. As local councillors are the 'closest to the people', they are asked to find all the solutions. Councillor Oldfield[89] receives citizens who are complaining

[89] Interview with cllr Oldfield, South Central local council NP exco councillor, Durban, 19.03.1997. It seems that the expectations towards a councillor are the same in a black township and in a poor white suburb (in this case, Umbilo). Councillors are asked to help to solve all kind of problems: "The last time, I had a woman coming to see me because she could not pay her rent (she owed R11,000). She did not

about crime, unemployment and all the problems related to it (payment of rent, electricity, squatters and so on).

Local government is seen by the majority of the population as a provider of welfare. This goes against the constitution which states that it is a national and provincial function and also against the white local authorities' tradition.[90] This vision of local authorities not concerned with welfare issues is often adopted by the new councils. This was clear when the two Durban Central councils had to take difficult decisions about the increase in the rents of council flats.[91] Durban households, mostly in Phoenix and Chatsworth, were expected to face a 8.5% increase. Although the MF tried to object to the increase, arguing that most of the people earned less than R600 a month and the increase could lead to 300 evictions, the decision was taken. The South Central council stated that indigent families should apply for assistance through the council's hardship fund. DP councillor Prinsloo approved because "it was unfair to impose welfare problems on the ratepayer."[92] Nearly all the councillors interviewed opposed any extension of local government's role to take charge of some of the welfare needs of the population. Their attitude was "we simply do not have the finance"[93] or "welfare should be provided at national level."[94] After the announcement that the metropolitan council passed a new water disconnection policy, Margaret Winter (chairperson of the metro exco) said that the council could not afford to help those who could not pay for the service. She said that Schedule 5 of the constitution did not include welfare, that welfare was a national government function and the public should apply to the government.[95]

But this vision does not correspond with the reality that local authorities face today. It is local government which takes the most decisive steps when it comes to the lives of those in financial difficulty. For instance, it is local government, not provincial or national government, which takes the decision to evict squatters and to cut water and electricity. As a consequence, it is to local government that complaints and demands are addressed, and local government is the main target of demands from civil society organisations to adopt a softer line. The Inner West council's director of revenue and housing stated that:

> *We, in local government are in the position of having to dispossess people of the house given to them by central government because they are poor and cannot pay their rates.*[96]

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have any income and her husband was in prison. I tried my best but I could only contact the association that helps the family of people who are in prison. She threw herself under a truck just after."

[90] In Durban in the 1970s, "Most aspects of public welfare and social services are only slightly within the jurisdiction of local government. Welfare is the responsibility of the national government and of private charitable organisations." See Purcell J. F. H., Durban, South Africa: Local Politics in a Plural Society, PhD, Los Angeles, University of California, 1974. p.88.

[91] The Mercury, 16.05.1997.

[92] Ibid.

[93] Interview with cllr Beningfield, chairman of the exco of Mandeni, Independent, Mandeni, 14.07.1997.

[94] Interview with cllr Kishore Harie, ANC metropolitan councillor, Durban, 13.03.1997.

[95] The Mercury, 08.07.1997.

[96] Sunday Tribune, 28.09.1997.

The pressure is indeed very strong on local authorities. When the Gauteng government announced that it would use the police and the army to switch off electricity in thousands of homes to speed up the recovery of the arrears owed to its 52 councils,[97] SANCO structures in KwaZulu-Natal planned a march through Durban in solidarity with their Gauteng counterparts and in order to warn the KwaZulu-Natal local authorities. SANCO had just launched a campaign against the "heartless attitude of government towards the poor". The 'Rescue Masakhane campaign' was a series of marches and rallies to press for the institution of lower tariffs for the poor. SANCO's president Mr Hlongwane said that some "arrogant local authorities throughout the country were not only refusing to accede to the wishes of the poor but were also not explaining the increases properly. This has caused confusion and people are losing respect for their councillors."[98]

2.2.2.2 - Councils which accommodate welfare demands

According to the White Paper on Local Government, one of the three sets of capacities that local government has to develop in order to be 'developmental' is "the ability to be open and flexible to new demands (rather than simply ignoring them because they do not fit with established plans or patterns of supply)."[99] Some local councils have proved their capacity of initiative concerning the welfare demand.

Only a few of the councillors interviewed for this study (in general ward councillors with very poor constituencies) were favourable to the adoption of this new function. The deputy mayor of the North Central local council[100] even sued the department in charge of the provision of water in Durban (Durban Water and Waste),

> *... on the ground that water is a basic right in the constitution and that Durban should not have the right to cut water when it comes to destitute persons.*

He felt frustrated that as a councillor, for the moment, all he could do was to prevent eviction of people if they are destitute. The mayor of Durban Metro Obed Mlaba, also sensitive to the issue, said during a conference on the White Paper in Johannesburg[101] that he would like to see national funds directed to helping local authorities taking on welfare functions which they were increasingly burdened with.

As welfare is not one of their constitutional functions, local councils sometimes use indirect means. When three members of a family were murdered and two children drowned in the Mandeni TLC, the council proposed to assist the families with the expenses for funeral

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[97] Sunday Tribune, 03.08.1997.
[98] Ibid.
[99] Ministry of Constitutional Development, White Paper, p.102.
[100] Interview with cllr Bonhomme, ANC, deputy-mayor the North Central council, Durban, 19.03.1997. His ward is in Newlands East.
[101] The Mercury, 04.03.1998.

and to give to each R500.[102] But as the grants do not fall under the scope of the provincial ordinance on local government, the council was forbidden by the Department of Local Government and Housing to take such action.[103] The council then allocated the grant by using the mayoral fund. According to the mayor:[104]

> *The ordinance dates from 1974 and is outdated. We have to find ways to work around. The ordinance is coming from the apartheid era and should not block the transformation... If a person dies, people are looking upon us. The role of a municipality is not only to render services. If people are unable to pay for a service, they must go to the treasurer, explain their case and then we will send the Masakhane co-ordinator to check the conditions. The person might be exempted from payment.*

In Ladysmith/Emnambithi too, councillors succeeded in by-passing the law:

> *At council level, there is the possibility of using the grant in-aid money to subsidise welfare but it would be a good idea if we set up a welfare desk next year.*[105]

In Durban a hardship fund exists, amounting to R60,000, which enables the destitute (only people who have zero income) to pay their rents for six months.[106] It is also a concern for the Inner West local council which proposed to allow exemption from paying rates. The council was looking at a policy which would allow the unemployed not to pay rates at all. The North local council, for its part, provided temporary refuge for flood victims coming from Ndwedwe.[107]

Local government does not only suffer from a discrepancy between the expectations of the communities and the policies they are allowed and/or able to initiate. The lack of legitimacy of

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[102] Mandeni transitional local council, Exco reports, January 1997.
[103] Mandeni transitional local council, Exco reports, February 1997.
[104] Interview with cllr Sam Zwane, mayor of Mandeni, ANC, Mandeni, 14.07.1997.
[105] Interview with cllr K. G. Rassool, deputy-mayor of Ladysmith/Emnambithi, ANC PR councillor, Ladysmith, 20.08.1997.
[106] Interview with cllr Bonhomme, ANC, deputy-mayor the North Central council, Durban, 19.03.1997. A report by Durban Water and Waste, dated 14.10.1996, recommended that the water be cut in case of non payment but that for the destitute, a sum of R60,000 be set aside which should be managed by councillors and officials, "until such time as the national government has put acceptable social welfare schemes in place." (Metropolitan council, Agenda of the Exco, 13.02.1997). The metro council passed a tougher metro water disconnection policy in May 1997 (63 councillors in favour to 1): "people will pay or face disconnection. Metro Water indicated that about 5 000 township residents had not paid their water bills. The metro will cut unless customers can provide acceptable reasons such as unemployment for being unable to pay. If the reasons are accepted, the customer will be given a "lifeline access" (200 litres a day) for which they will pay R6 a month. If not, they will be totally disconnected." (The Mercury, 08.07.1997).
[107] North local council, Minutes of the Exco, 15.11.1996.

local government comes also from the fact that people, especially in informal settlements and rural areas, owe allegiance to a different kind of authority.

2.3 - Other allegiances

Andrew Boraine stated during a conference[108] that:

> *I must admit in the last few weeks I have heard reference to meetings between the councils and community leadership. Now this is very strange to me, because who are the councillors, if they are not community leaders?*

What has to be defined clearly here, is the meaning of the "leadership" which exists outside the council chamber. In KwaZulu-Natal, several actors could dispute the legitimacy of the local councillors in urban and rural areas.

2.3.1 - In urban areas

2.3.1.1 - Warlordism[109] in informal settlements

The collapse of local government structures in African residential areas, "has led to the creation of local power structures such as youth, civic and defence organisation, on the one hand, and vigilante and warlord structures on the other."[110] Boaden and Taylor describe the phenomenon of warlordism in the informal settlement of Richmond Farm (in Ntuzuma, now in the North Central local council)[111] in early 1992:

> *Individuals are holding* de facto *(rather than* de jure*) power in the area during the period 1985 up to the present* [1992]. *Many of these informal leaders are regarded as warlords in the sense that they protect their territories with armies (or 'impis') drawn from the local residents... The warlords derive their power from control over the land... the warlord must retain control over the people who settle. ... Any improvement by*

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[108] National Interim Consultative Body for organised local government, Local Government in the New Constitution, The Bloemfontein Papers, Conference hosted by the Free State local government association, 5-6 August 1996.

[109] A warlord is "a powerful local person who has *de facto* power in an area and owes only nominal allegiance to any higher authority. Being either hereditary or elected he has some status in a local community". See Minnaar A de V, Squatters, Violence and the Future of the Informal Settlements in the Greater Durban Region, For the HSRC co-operative programme: affordable material provision, 1992, p.38.

[110] Bekker S. (ed.), Capturing the Event. Conflict Trends in the Natal Region 1986-1992, Durban, Indicator SA, Issue Focus, 1992, p.29.

[111] Boaden B., Taylor R., 'Informal settlement: theory versus practice in KwaZulu/Natal', Smith D. M. (ed.), The Apartheid City and Beyond, Urbanisation and Social Change in South Africa, Johannesburg, Witwatersrand University Press, 1992, pp.147-157

way of independent land ownership would erode his power base. ... Any move towards formalisation would also result in de-densification meaning the erosion of his political power base as people move into adjacent areas.[112]

Thomas Shabalala, a former IFP MPP, has commonly been described as the warlord of the squatter settlement of Lindelani next to Ntuzuma township. Lindelani began to grow up from 1982/83. By the beginning of 1990, Shabalala had annexed most of the adjacent Richmond Farm towards Newlands West after the warlord in this area (Mthanzi) was assassinated.[113]

According to Minaar, writing in 1992:

A factor which allows urban warlordism in Natal is that town councils in KwaZulu have few powers and no money to enforce their authority. They do not levy their own taxes, but are controlled by the KwaZulu government in Ulundi. Their main task is the allocation of township sites.... Shabalala had appropriated the land belonging to Ntuzuma township with the blessing of the KwaZulu government and had his own committee for the allocation of sites in Lindelani.[114]

As contractual and institutionalised relations between individuals and the state did not exist,[115] warlords assumed the attributes of authority in squatter camps. But if they were authorities in the locality, they were far from being a local authority. An author speaks of Shabalala as the 'informal mayor of Lindelani'[116] and Bekker qualifies[117] warlords as an "informal local government". But if a warlord can claim to exercise a strict control over existing resources such as land, shops, schools, water supply,[118] he:

... has at his disposal very little in the way of social resources. He is not the local municipality and cannot, for example, deliver basic infrastructural services to satisfy shantytown residents' most basic needs.[119]

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[112] Ibid., p.151.
[113] Minnaar A de V, Squatters, Violence, p.41.
[114] Ibid., p.49-50.
[115] "Law, administrative regulation and control over property are not determined by the apparatuses of the central or the local state, for these are external to these areas. The local state does not intervene as a mechanism of allocation, access, distribution and enforcement of rights to residential resources." See Morris M., 'Violence in squattercamps and shantytowns: power and the social relations governing everyday life', South Africa in Transition, Collection of papers delivered at a conference in Pretoria on 26 June 1992, Environmental Law Series No. 1, Pretoria, UNISA, p.95.
[116] Xaba T., 'Leaders in Lindelani', in Hindson D., McCarthy J. (eds.), Here to Stay, Informal Settlements in KwaZulu Natal, Durban, Indicator Press, CSDS, 1994, p.69.
[117] Bekker S. (ed.), Capturing the Event, p.36-37.
[118] Morris M., 'Violence in squattercamps', p.99.
[119] Ibid., p.100.

Today, councillor Maphalala is one of the two elected ward IFP councillors in Richmond Farm. When asked about the presence of warlords in the sub-structure, he states that:[120]

> *... some councillors are looking for the support of and are backed by warlords because they think they will, that way, have the control over the people but that is not a good strategy because the relationship with the constituency is based on fear.*

However he was very careful not to refer to his own situation in Richmond Farm. According to other sources in the council, his legitimacy is threatened by a local warlord who competed against him in his ward (under the same IFP banner) and lost by 600 votes (1,700 against 1,100).

> *The problem in the council now is that the IFP councillors elected on PR list are warlords. Most of them keep very quiet in the council but are using the prestige of their councillor's post in their area to get more legitimacy. The other problem is when a councillor has a warlord in its area who lost the elections. As he has the power of violence, he will be able to counter rather easily the councillor and people will obey the warlord rather than the councillor. Warlords extract tax from burials and water.*[121]

Many informal local economic interests are threatened by local government policies. The 'squatter-lords'[122] found in informal settlements build their authority on private armies, private taxation (from rents or a household levy) and the allocation of land.[123] They are directly affected by local councillors' decisions, especially when it comes to the housing policy. As Julian Baskin points out:[124]

> *There are many economic interests around housing issues. Some people rent accommodation in their backyards. Some people are forced to shop in specific areas. The warlords do not want any municipal plan to disturb the status-quo... Local elections have not solved anything because despite their legitimacy following the elections, councillors do not want to enter into conflict with the warlords and their interests. Councillors have been elected because they were the more educated in*

[120] Interview with cllr M. J. Maphalala, IFP ward councillor, member of the exco of the North Central local council, Durban, 11.06.1997.
[121] Anonymous interview.
[122] See the distinction between four different types of warlords (induna type, councillor type, enforcer and squatter-lord) in Minnaar A de V, Squatters, Violence, p.39-41.
[123] "Political control in a shantytown can thus be built on the rent/shack relationship with a squatter leader cum warlord being the 'lord of all shacklords'. Alternatively... the rent relationship is abolished by the shantytown leader/warlord, in exchange for which the shantytown leader/warlord very quickly asserts the reciprocal obligations of taxes, levies, military services and so on." Morris M., 'Violence in squattercamps', p.96.
[124] Interview with Julian Baskin, Housing Department, Durban Metro, 27.11.1996.

the area but the power lies elsewhere and they are not ready to use the post they occupy to make the metro policy work. It is local but it is not authority.

2.3.1.2 - Political opponents

The legitimacy of councillors is also contested by leaders who, if they do not specifically command land allocation, command a certain power over part of the community. In certain wards, the political opponents who lost during the 1996 elections refuse to accept their defeat. The mayor of the South Central local council who lives in Umlazi has a body guard:

> *I need him because there is a problem of security... my competitor in the local elections changed his attitude towards me. We used to work together at the University but now he does not talk to me and organises some meetings in the wards without asking my permission. He is acting out of frustration and tries to raise the people against me but I can do nothing about it. There is a problem for people to see me as their legitimate councillor and as the mayor. Even if I had three times the number of votes that he received, he does not want to calm down.*[125]

Mayor Johnson confirms that:[126]

> *For the citizens, I think that there is still political intolerance and you will find that the candidate of the party that did not win in the elections is trying to discredit the councillor and that the followers do not recognise him as legitimate. They would do everything to prevent him from delivering.*

This refusal to accept the legitimacy of a ward councillor has been illustrated in Umlazi H-Section in 1997 (ward B10). The ANC ward councillor and an IFP councillor (elected on PR and living in the ward), clashed over the right to call meetings in the area. In the section, three hundred people armed with automatic rifles and handguns were seen shooting randomly.[127] This incident shows that ward councillors tend to consider their constituency as a personal fiefdom where violence is a legitimate means to contest a party presence. The other obvious example illustrating the forces existing in parallel or behind the elected representatives is the Richmond case. The Richmond area in the Midlands had been the long-time stronghold of the

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[125] Interview with cllr Theresa Mthembu, mayor of the South Central local council and Umlazi ward councillor, Durban, 07.03.1997.

[126] Interview with cllr Lydia Johnson, mayor of North Central local council, ANC PR councillor, Durban, 08.05.1997.

[127] Human Rights Committee of South Africa, Human Rights Report, Johannesburg, HRC, May 1997, p.28. The HRC reported eight people killed, six injured and eight houses burnt in H-Section and M-Section in June. Human Rights Committee of South Africa, Human Rights Report, June 1997, p.27.

alleged warlord Sifiso Nkabinde.[128] After he was expelled by the ANC for being suspected of having spied for the apartheid government, nine ANC PR councillors decided to show their support to the charismatic leader (and former mayor who was awarded the freedom of the town)[129] and resigned from their seats. Not only were Nkabinde's followers ready to step down, preventing the normal exercise of the council's authority (the council no longer had a quorum and was paralysed), extreme violence was also used against those who were ready to defy Nkabinde. The first councillor assassinated was Rodney van der Byl in May 1997.[130] After by-elections characterised by intimidation and threats,[131] five ANC members, including two ANC councillors, were killed in the Isimozomeni area, at the home of a 20-year old councillor.[132]

The fact that warlords often join the ranks of the IFP or the ANC is not a guarantee that they can be controlled. As Johnston points out they were:

> *... attaching themselves to the ANC or the IFP... but not always placing themselves under their control. They have their own perception of what it means to 'belong to' or to be 'associated with' the ANC or the IFP.*[133]

The fact that the main opponent of councillor Maphalala for the local elections was a man running under the same political banner as him (IFP) seems to confirm the lack of control of the party, its inability to impose discipline in certain areas.

In KwaZulu-Natal, most of the private factions have been assimilated into political parties which have given warlords their backing with money and arms. Parties are more likely to regulate the activities of their warlord components but it is difficult to evaluate to what extent. Personalities like Shabalala in Lindelani or Nkabinde in Richmond, are characterised by charisma and ruthlessness. Political parties used these people and reinforced their powers by providing money and arms, in exchange for votes and followers. When the party stops

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[128] In an article for The Mercury, Arthur Konigkramer, the IFP treasurer, accused Nkabinde of having driven the IFP out of the area: "InKosi Zwandile Majozi was driven from Ndaleni after there had been 12 attacks made on his life. The IFP was driven out of Ndaleni, KwaMagoda and Sizomomeni by gangs of ANC youth who murdered inKosi Majozi's supporters. During 1992 the ANC targeted the area of Gengeshe and murdered IFP leaders (The Mercury, 31.07.1997). Nkabinde was not only free from any political competition but also from any police control. An independent source states that the Richmond area was a 'no-go zone' for the police: "the ANC said that an agreement was reached between the station commander and the community in the area that if police from outside wants to carry out investigations they must first consult with the station commander and the latter will notify the community which would assist outside investigators. (Human Rights Committee, KwaZulu-Natal Report, March 1996, p.3).

[129] The Mercury, 02.10.1996.

[130] According to a press report, Rodney van der Byl was threatened of death if he did not leave the town but responded "I am staying, my allegiance is to the ANC". (Daily News, 08.05.1997).

[131] Sunday Tribune, 20.07.1997.

[132] The Mercury, 24.07.1997.

[133] Johnston A., 'The political world of KwaZulu-Natal', in Johnson R. W., Schlemmer L. (eds.), Launching Democracy in South Africa, The First Open Election, April 1994, New Haven and London, Yale University Press, 1996, p.178.

supporting the 'leader',[134] it also stops the financial support on which they have become more and more dependent. It is then more than likely that the warlords' capacity to be a nuisance - towards the party but mainly towards other powers such as the local council - would become minimal except in very rare cases, such as Nkabinde or Shabalala.[135] Nkabinde in his stronghold of Magoda, even without the support of the ANC, seemed still be considered as a 'leader' because of his charisma and/or ability to impose terror. A newspaper reported that among the nine councillors who stepped down, there was a strong sense of loyalty to Nkabinde and a dissatisfaction at the way they were treated by certain members of the ANC provincial executive. Former ANC council whip Henry Gwamanda stated, "if we have to choose between our brother and a stranger, we will obviously choose our brother."[136]

2.3.2 - AmaKosi in rural areas

2.3.2.1 - Current status in KwaZulu-Natal[137]

In January 1997, the Supreme Court ruled[138] in Pietermaritzburg that amaKosi are entitled in terms of the new constitution, to have *ex-officio* representation on regional councils by right of their office as traditional leaders. This followed a legal wrangle between the ANC and the Local Government and Housing MEC as well as the MEC for Traditional Affairs and the chairman of the House of Traditional Leaders. The ANC contested the rural model of local government in November 1996, arguing that it was an exception to the nature of democratic politics. However, Mr Justice Combrinck stated[139] that the legislature aimed to reconstruct local government and it could "not immediately convert that which existed into a truly democratically-elected government. Accordingly transitional arrangements had to be put in place." The new constitution provided that traditional leaders would be *ex-officio* members of regional councils until 30 April 1999.

While the IFP and the ANC present the matter in grandiloquent terms - with the ANC considering that it is fighting for the 'triumph of democracy over feudalism', and the IFP contesting the case 'to prevent Western democratic values from usurping the God-given

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[134] Thomas Shabalala was expelled from the IFP central committee immediately after the local elections. Sifiso Nkabinde was expelled from the ANC on 7 April 1997 on the ground that he had worked for the apartheid police.

[135] Shabalala tried to take his revenge on the IFP after his suspension from the party. He appeared in the Durban magistrates court in connection with attacks on IFP supporting Richmond Farm in October and November 1996. Among those attacked was the IFP chairperson for Richmond Farm ward 2 branch. Attackers were believed to be from IFP-supporting Lindelani section which falls under the control of Shabalala. See Human Rights Committee, Human Rights Review 1996, Johannesburg, HRC, 1997, p.44.

[136] Sunday Tribune, 11.05.1997.

[137] For an historical insight on the Shepstone administration and the changes it introduced in the institution of chieftainship see Lambert J., 'Chiefship in early colonial Natal, 1843-1879', Journal of Southern African Studies, Vol. 21 (2), June 1995, pp.269-285.

[138] The Natal Witness, 28.01.1997.

[139] Daily News, 2801.1997.

powers of traditional leaders'[140] - the issue of cohabitation between elected councillors and traditional chiefs has been a practical reality since August 1996 in the regional councils. Tribal authorities[141] used to enjoy extensive powers thanks to the KwaZulu government. In fact, because the correspondent KwaZulu Act has not been repealed, they still enjoy them on paper. As a consequence, confusion is more than likely to reign over who is holding what functions.

The AmaKosi and Iziphakanyiswa Act[142] passed by the former KwaZulu government in 1990, officially vested the executive powers of any tribal community in the inKosi or Iziphakanyiswa who should act on the advice of the tribal or community council. The Act, which is still not repealed today, places responsibility on the tribal authority for:

- The general well being of the community;
- Adherence to traditional laws and customs;
- Maintenance of law and order;
- Advancement of the people in the area.[143]

The Act also attributed a new role to the regional authorities.[144] They had to ensure "service delivery functions in education, road maintenance and construction, health and agriculture."[145] These regional authorities continue to exist in KwaZulu-Natal and despite Miller's statement that "they will have nothing whatsoever to do with the rural local

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[140] Mail and Guardian, 12-18 April 1996.

[141] "The tribal authorities are composed of the chief or other *ex-officio* headmen together with those members of the tribe whom the tribe in accordance with its law and custom recognises and councillors who, with the chief, constitute the tribal government". See Buthelezi Commission, The Requirements for Stability and Development in KwaZulu and Natal, Durban, H+H Publications Ltd, 1982, Vol. 1, p.133.

[142] Act No. 9 of 1990 of KwaZulu.

[143] McIntosh A., Vaughan A., Xaba T., The Rural Local Government Question in KwaZulu-Natal: Stakeholders' Perspectives, Durban, RCF, February 1995, p.38.
A much more detailed description of the functions of tribal authorities is given in the Buthelezi Commission report. The different functions are:

- Financial: collection and control of taxes, tribal and animal levies, fees in customary courts and fees from grazing rights (pasturage) and clinics;
- Agricultural: allocation of residential and agricultural plots, land conservation, minor roads, fences and dams, control of dipping, movement of livestock and impoundment;
- Social services: registration of births and deaths, provision of clinics, consideration of social pensions and administration of labour bureaux;
- Judicial: hearing and investigating complaints by "tribesmen".

See Buthelezi Commission, The Requirements for Stability, p.62. (The sources are the regulations under the Bantu Authorities Act of 1951, the proclamations by the state president in terms of the Native Administration Act of 1927, the directives from the KwaZulu Legislative Assembly).

[144] "Regional authorities may be established in respect of two or more areas of tribal authorities which have been established. A regional authority consists of representatives of each tribal and/or community within the area. They are required to advise and make representation to the government in regard to all matters affecting the general interests of black South Africans in their jurisdiction. They may establish and maintain education institutions, deal with the construction and maintenance of roads, bridges, dams, drains, furrows, supply of fresh potable water, hospitals, clinics.... See Buthelezi Commission, The Requirements for Stability, p.133-134

[145] Ibid.

government system" and that they will be confined to "traditional affairs",[146] it is very difficult to draw the line between what is 'traditional' and what is not. As Christianson points out:[147]

- Some traditional functions such as land use allocation are in conflict with the role of local government;
- There is a potential conflict between councillors and traditional leaders: where will people feel that the political authority is vested?

Rural local government is dependent for every one of its actions or projects, on the approval of the tribal authority. In theory, it even has to consult the Minister of Traditional and Environmental Affairs for every decision affecting the tribal areas:

> *Regional councils exercise the power assigned by law to local government in the remaining areas, provided that no power shall be exercised or function performed within a regional or tribal authority as defined in the KwaZulu AmaKosi and Iziphakanyiswa Act of 1990 without the prior approval of the Minister of Traditional and Environmental Affairs.*[148]

But in practice, the inKosi's approval is sufficient:

> *It is true that the regional council cannot exercise any power in tribal authorities before the approval of the Ministry of Traditional Affairs but the regional council still implements the projects only with the approval of the traditional chiefs. It would be too long if we had to wait for Ulundi. There are talks now with Ulundi to formalise the situation.*[149]

2.3.2.2 - A difficult cohabitation in the regional councils

This confusion over the roles and the functions is not so worrying for the moment[150] because amaKosi are considered as *ex officio* members of the council, with seats reserved on the exco and in the other working groups of rural local government. As they are integrated in the system, in theory it would not be necessary to argue about who is legitimate to decide about development projects or who should be consulted for such and such service provision. As a third of the rural areas are occupied by tribal areas in KwaZulu-Natal[151] and as everyone agrees that the greatest needs are found in those areas, tribal areas *de facto* occupy the central place in the deliberations of the rural councillors. Because the regional councils are dominated by the

[146] Interview with D. W. Christianson, DBSA, Johannesburg, 21.05.1996.
[147] Ibid.
[148] Provincial Gazette of KwaZulu-Natal No. 5116, Proclamation No. 54, 1 April 1996, p. 1017.
[149] Interview with Andre Els, CEO of the iNdlovu regional council, Pietermaritzburg, 07.11.1996.
[150] "Whether traditional leaders should exercise voting rights alongside the elected councillors, as well as other matters relating to this model, needs to be determined after further consultation and research". See Ministry of Constitutional Development, White Paper, pp.77-78.
[151] Department of Land Affairs, Land Info, June/July 1996, p.10.

IFP and the bulk of the amaKosi are seen as aligned to this party, relationships between elected and 'god-chosen' councillors should be smooth. This, however, is not always the case, mainly because of the impossibility of defining clearly the functions of the two actors. As a Zululand regional council's document points out:

> *Distinction of functions between elected councillors and amaKosi was initially explained as being based on the inKosi having administrative control of his/her tribal areas, whereas elected councillors were responsible for bringing development... The definition was disputed as it was pointed out that should the amaKosi's role be purely that of administration of his land, local government would undermine their authority.*[152]

Besides, amaKosi do not feel part of the regional council. The iNdlovu regional council's decision[153] to refer to amaKosi as "councillor inKosi" in recognition of their title, which is symbolically uniting the two functions and the two legitimacies together, has never been applied during the council meetings. In the language as well as in the facts, an inKosi remains an 'imported element' which is not bound by the same rules as elected councillors.

In at least two of the regional councils (uMzinyathi and Zululand), traditional leaders have formed specific committees, almost exclusively[154] composed of amaKosi, called 'Traditional and Environmental Affairs'. The terms of reference of the uMzinyathi committee is to:[155]

- *Fight for peace and stability;*
- *Inform the communities of what is expected of councillors in the amaKosi areas;*
- *Ensure that amaKosi are sufficiently represented in the regional council;*
- *Ensure that development takes place in the amaKosi areas;*
- *Look after the co-operation between the amaKosi, councillors and different political organisation in the amaKosi areas;*
- *Prioritise the needs.*[156]

According to the CEO:[157]

> *The amaKosi wanted a special committee dealing with their problems because they feel side-lined in the council. They are only 20% and they*

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[152] Zululand regional council, Agenda of the Council, 12.06.1997.

[153] The decision was taken during the exco that was held on 10 December 1996. See Agenda of the iNdlovu Exco, 28.01.1997.

[154] In uMzinyathi, the committee is composed of 14 amaKosi, one *ex-officio* councillor, the CEO, and the chairman of the regional council. See uMzinyathi regional council, Agenda of the Traditional and Environmental Affairs Committee Meeting, 13.12.1996.

[155] Ibid. In the Zululand regional council, the committee deals with "land and housing and social welfare". See Zululand regional council, Agenda of the Council, 31.10.1996.

[156] This last function is not clearly defined. This is potentially undermining the authority of the whole council to identify the communities' needs and choose the most pressing.

[157] Interview with Mr Winston Mngomezulu, CEO of the uMzinyathi regional council, Ladysmith, 16.051997.

think that it is not enough. Even if the majority of councillors is IFP, it is not the same, they feel a difference between elected and non-elected councillors.

For traditional chiefs, sitting in a council which approves a decision does not really bind them. They might take a decision together with their fellow councillors, but if it is about a project for example, the developer has to present the project again to the relevant inKosi so that he can give his approval. A development facilitator of the RCF experienced[158] this when he presented the idea of holding workshops in the regional councils in order to bring together the councillors and the communities:

When you want something from the Chief, and you explain it to the council, where he is present, he listens to it but you have to come back to him, see him in his house and talk to him as an inKosi and not as a councillor.

This situation can be explained by the fact that the power is not vested in the inKosi himself but in the tribal authority, in which he acts with his councillors. An inKosi is not supposed to take a decision by himself, he has to consult his council. Offering a seat to the amaKosi in council does not facilitate the decision-making process because the amaKosi are not in a 'usual' and 'traditional' decision-making situation. They are put in a position where they are supposed to represent their areas alone and find themselves outnumbered by elected councillors who are not claiming the same type of legitimacy.

'AmaKosi councillors' in this context, tend not to take very seriously their status of councillor. For example, those who sit in the exco do not make it one of their priorities to communicate the activities of the local authority to the other traditional leaders. It was at first surprising to hear from interviewees that it was elected councillors who often informed the other amaKosi about the decisions taken by the regional council. Councillor Luthuli in iLembe reports[159] that:

During my meetings with my 'constituency', I submit the agendas of the council meetings because otherwise, amaKosi do not know what we are doing at all.

Another example of the lack of legitimacy the regional councils enjoy amongst amaKosi is offered by the way the provincial government communicates about the development plans which are set up for each region. A provincial official[160] declared to the uThungulu regional council that:

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[158] Informal discussion with an RCF facilitator during the RCF AGM, Durban, 21.11.1997.

[159] Interview with cllr J. Luthuli, exco member of the iLembe regional council (IFP) and deputy-chairman of the Ndwedwe sub-regional council, Ndwedwe, 06.11.1997. This was echoed by cllr Ngcobo who sits in the meetings of the Ubumbulu regional authority and presents to the amaKosi reports on the activities of the regional councils. (Interview with cllr B. R. Ngcobo, chairman of the Ubumbulu standing committee, IFP member of the exco of the iLembe regional council, Durban, 20.11.1997).

[160] Address of F. Brooks during an uThungulu exco. See uThungulu regional council, Minutes of the Exco, 30.01.1997.

The exco asked the department to establish direct contact with the House of Traditional Leaders to inform the traditional leaders of the development initiatives in rural areas.

It is clear that the information channelled through the regional council (information which is easily accessible for all the councillors), is not considered as proper by the amaKosi. They have to be addressed during their own meetings[161]

At a national level, the content of the White Paper on Local Government also illustrates the idea that amaKosi obey different rules and recognise different standards of legitimacy. The White Paper carefully avoids taking any strong position on the matter of the roles of amaKosi in local government, stating that a "White Paper on Traditional Affairs is under way."[162] This is equivalent to admitting - at least in the foreseeable future - that the proper channels dealing with local government legislation (the Ministry of Constitutional Development) are not legitimate when it comes to the position of traditional chiefs. On the same pattern, when a debate arose in the Zululand regional council[163] over whether a joint (amaKosi and councillors) submission should be made to the Ministry of Constitutional Development about the Green Paper on Local Government, it was pointed out that the amaKosi were "a separate body and would be making a separate submission."[164]

The case for regarding the amaKosi as representing the rural population better than elected councillors is not confined to traditional leaders themselves. A National Party councillor said of them:

Most of them are educated, wise, articulate and experienced in running their communities in a humanitarian approach.... We need them in the council, they represent a vast number of people and areas which need development.[165] (emphasis added)

Rare were the interviewees who acknowledged that "traditional chiefs think that elected councillors are working for them",[166] but many councillors told stories about how elected representatives did not feel legitimate to take decisions because everything had first to be referred to the chief:

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[161] In uThungulu, the chairpersons of the sub-regional committees attend the regional authorities meetings and inform the amaKosi of the projects approved and refused by the regional council. Interview with Sipho Magwaza, Assistant-Director, Department of Management and Administrative Services, uThungulu regional council, Richards Bay, 18.07.1997.

[162] Ministry of Constitutional Development, White Paper, p. 76.

[163] Zululand regional council, Agenda of the Council, 12.06.1997.

[164] Ibid.

[165] Interview with cllr G. J. N. Meyer, NP councillor, member of the exco of the iNdlovu regional council and member of the exco of the Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 01.04.1997.

[166] An interviewee from the uMzinyathi regional council alone stated it clearly.

Once, during a training workshop, the trainer (a professor) asked the councillors what they think about the idea of dividing tribal land in order to sell it to private owners. I could not answer and none of the councillors neither because it is a problem that the chiefs have to answer and it would have attracted a lot of problems if they had heard that I proposed something. The amaKosi were not there and we could not discuss the issue.[167]

If this situation can be justified by the fact that the issue that the councillors were asked to tackle concerned directly the amaKosi and the land tenure, on other occasions, the researcher noticed numerous instances where councillors were not ready to discuss any matter concerning local government without the amaKosi being involved.[168] Councillor Ngcobo[169] in iLembe sees clearly his role as subordinate to the amaKosi's one:

When I am aware of 'any problem' in the area of an inKosi, I refer it to him. I am only a councillor and deal only with 'development'...If I want to visit an area, I ask the traditional leader.

3 - Legitimacy of local government: the question of compliance

3.1 - Refusal of people to abide by council's decisions

Legitimacy in government is customarily associated with consent.[170] This consent can be measured in different ways but the most obvious is the compliance (or non-compliance) with council's decisions. Given the divided and conflicted background to South African local government, the decisions of councils are likely to be controversial and provoke the opposition of at least a segment of the electorate. Contestation and sometimes refusal can come from the white community (usually referred as 'ratepayers' such is their degree of identification with those "who pay") on issues like the local authority's budget.[171] On the other hand, the black

[167] Interview with cllr de Lange, representative of the levy payers in the uThungulu regional council exco, Eshowe, 15.07.1997.

[168] An uThungulu councillor present at the Institute for International Relations' seminar, The 1997 Local Government Summit, intervened during a session on rural local government asking that councillors stop speaking because nothing could be decided without the amaKosi.

[169] Interview with cllr B. R. Ngcobo, chairman of the Ubumbulu standing committee, IFP member of the exco of the iLembe regional council, Durban, 20.11.1997.

[170] According to Locke, a government is legitimate because of the 'consent' of individuals. "Men being, as has been said, by nature all free, equal, and independent, no one can be put out of his estate and subjected to the political power of another without his own consent, which is done by agreeing with either men, to join and unite into a community for their comfortable, safe, and peaceable living...". See Locke J. 'An essay concerning the true original, extent and end of civil government', in Barker E., Social Contract, London, Oxford University Press, 1971, p.56.

[171] The Pretoria Supreme Court found that the city council had discriminated against white ratepayers by charging a flat rate to black residents who had meters. About 50 members of the ratepayers' group stood

community might challenge council decisions on controversial issues such as allocation of resources, payment for poor services, eviction of squatters etc. Both communities are prepared to react adversely to decisions which directly target their interests or well-being. But this contestation manifests itself very differently in the white and the black communities. It is only in the former black areas that citizens do not hesitate to contest or refuse to abide by, their representatives' decisions. In doing so, their behaviour goes beyond opposition and becomes a challenge to legitimacy.

3.1.1 - Challenges coming from the whites

White opponents to council decisions do not go beyond the stage of contestation. A classic example is the question of rates. The ratepayers' associations are particularly vociferous, stating clearly their opposition to the direct consequence of the amalgamation, which is the cross-subsidisation of poor areas by wealthy ones. Umkomaas Amalgamated Ratepayers' Association was said to be "up in arms over the TLC's plan to inherit a R4 million debt from the defunct DSB." The debt arose from uncollected rates from former black areas. The dispute began when the council announced a rate increase of between 118 and 150% which affected the former whites-only areas of Widenham, Clansthal and Umkomaas.[172]

In the Outer West local council, the ratepayers' association Conomirra (Confederation of Mistbelt Ratepayers) was very vocal during the first year of the council. Councillor Webber reported to the council[173] that the association:

- Proposed that the budget deficit of R1.5m be provided by the metropolitan council and/or government, instead of increasing the rates;
- Does not accept the "transformation process" and contends that the council has too many councillors and that allowances should be drastically decreased.[174]

The tension over rates' increases in some towns shows that the ratepayers are contesting the authority of the new council. A letter signed by 2,000 Ladysmith ratepayers addressed to the council, stated that:

> *The TLC with its decision to apply a discriminatory rates system based on race and colour re-introduced apartheid in its worst and crudest form... The ratepayers are aware that the withholding of their rates will render this town bankrupt within months. This in turn could lead to the provincial Premier dismissing the council and appointing an*

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to attention and sang 'Die Stem' after the judge left the courtroom. Herstigte Nasionale Party (HNP) leader Jaap Marais said "this is the price they will have to pay for the fiction of racial equality." Business Day, 31.01.1997. For more details on the issue, see chapter 7, p.250.

[172] The Mercury, 19.02.1997.

[173] Outer West local council, Minutes of the Council, 26.02.1997.

[174] Outer West ratepayers had to the end of February 1997 to comply with the law and pay the rates voted in the first Outer West budget. Instead, they declared they were only ready to pay last year's rates plus an increase of 10% (Daily News, 04.03.1997).

administrator to manage the town. The ratepayers of Ladysmith would rather negotiate and discuss the matters with an administrator instead of an insensitive, arrogant and dictatorial council.[175]

In the Northern local council, after the announcement that the rates would be increased by 300%,[176] groups of angry ratepayers called on MEC Miller to review their council budget.

The call for the province to take over the management of the town or to intervene in the making of the budget is a common one.[177] This is perhaps the strongest example of rejection of the new councils. People are signifying that they would prefer a body which was not elected by them rather than the council they have.

But white contestation has not - yet? - developed into any meaningful steps taken to jeopardise the future of the new local authority. In the Outer West, the negotiations initiated by cllr Webber with Conomirra for the 1996/1997 budget bore their fruit and rate boycotts from the white community were avoided. They accepted the necessity of the increases. However, councillor Webber is prudent in his statement concerning the 1998/1999 budget: "if the rate increase goes beyond inflation, there will be problems. People understood the necessity to increase their rates in the first two years but they think that the situation has to be stabilised now."[178] In Ladysmith too, the threats of boycott were not translated into action.[179]

No TLC in KwaZulu-Natal has so far experienced extreme situations such as the one provoked by the Pretoria court case.[180] But it has to be asked until when is the white population ready to accept and endorse the decisions taken by a body which they feel remote from, which they feel does not take their interests at heart because it has new priorities, and is composed of councillors who are considered as irresponsible children?

Councillors are more and more ridiculed, and are the subject of jokes from the population. In the Ladysmith Gazette, many of these are found in the page dedicated to the letters to the editor:

What is difference between a council meeting and a kiddies birthday party? A kiddies party is held under adult supervision.[181]

3.1.2 - Contest and refusal from black communities

[175] Letter attached to the Ladysmith transitional local council, Minutes of the Council, 25.09.1996.
[176] The Mercury, 12.11.1997.
[177] In terms of Section 139 of the constitution, provincial government has only the power to intervene when a municipality cannot or does not fulfil an executive obligation in terms of legislation.
[178] Telephonic interview with cllr Webber, 17.05.1998.
[179] Telephonic interview with the director of the Finance Department, Ladysmith/Emnambithi TLC, 18.05.1998.
[180] Cf. chapter 7, p.250.
[181] Ladysmith Gazette, 22.08.1997.

In the context of newly amalgamated areas, the tension is even higher between the new councillors and their constituency. Some of the interviewees explain this phenomenon by the fact that candidates did not hesitate to make very unrealistic promises during their campaign. Most of them did not know what to expect when elected to council, "they just thought they could share the cake between themselves."[182] More and more, as "people have become accustomed to fight to get what they want... they are threatening destruction."[183] The conflict between popular representation and sound governance arises in accusations that black councillors prevent the enforcement of tough decisions taken by the council, such as credit control measures. Constitutional Development Department national intervention programme co-ordinator Chris Kapp said[184] that councillors lack the political will to enforce tough measures and that political interference prevents many accounting officers from doing their jobs:

> *Accounting officers need strong political support from MECs and local authorities to introduce sound customer management, develop new revenue systems and strengthen their metering, billing and revenue collection systems.*

The widely accepted reason is that the councillors "do not want to become unpopular."[185] It is the main argument of Chipkin[186] who bases his observations on three local authorities in the East Rand (Alberton, Germiston and Boksburg). According to him, the councillors would not intervene for fear of not being re-elected. The Mercury municipal reporter makes similar charges:[187]

> *... the delivery will depend on the quality of councillors, their financial ability to run the ship. It is surprising that councillors support the payment of services but have not taken any visible action to make this a reality It is unfortunate to see how reluctant the councillors are to take necessary and essential, although unpopular decisions... The issue is far more important than considerations of losing votes in your constituencies..*

In fact, the councillors' fears run deeper than this. It is true that councillors are afraid of enforcing certain unpopular measures, but the fear of not being re-elected is not the most

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[182] Interview of a TLC councillor.
[183] Interview with cllr M. J. Maphalala, IFP ward councillor, member of the exco of the North Central local council, Durban, 11.06.1997.
[184] Business Day, 29.04.1997.
[185] Interview with Mr B. P. Marais, town clerk of Estcourt, Estcourt, 06.08.1997.
[186] Chipkin I., Thulare P., The Limits of Governance: Prospects for Local Government after the Katorus Wars, Johannesburg, Centre for Policy Studies' Transition Series, Research report No. 52, March 1997, p.65.
[187] The Mercury, 11.02.1997.

important one.[188] The fact is that councillors know they are not legitimate to the point of asking people to fulfil their duties[189]. Councillors are afraid, but afraid for their lives. This was confirmed by councillor Vahed[190] in Estcourt:

> *The councillors are afraid that if they speak the truth, they will get lynched. They have meetings but they cannot speak the truth. They only ask the communities to pay. People in Wembezi do not want to help us disconnecting electricity. We will have to use the army like in Gauteng. In Wembezi, we have a return of 20% on the service. This has a bad consequence on the whites who threatened to stop paying.*

Other interview responses confirmed councillors' reluctance to confront their constituencies alone:

> *It is the duty of councillors to tell the people that they must pay, but the whole council should go to the wards, not only the ward councillor. We need the town clerk as well as the Estcourt councillors.*[191]

In the South Central local council, meetings between the council and the communities to discuss payment of services were at first held only between officials and communities with no councillor being present.[192] The officials pointed out that they were not well received and that they wished some local councillors could be with them, because they were asked political questions that could be answered only by councillors.[193]

In the regional councils, councillors do not want to be seen as responsible for the refusal of funding development projects. An iNdlovu rural councillor intervened very strongly during an exco meeting,[194] asking that "other structures be made responsible for the decisions":

> *I do not want to have my house burnt because of a rejected application... we are targets for the communities.*

This lack of legitimacy is translated into violent actions against councillors who seem to try to enforce tough measures The MINMEC[195] bought some space in a newspaper[196] to regret

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[188] This is true especially in the East Rand where the black electorate massively voted for the ANC. The party is not likely to face any serious contender in the next local elections. Stoker points out that local elections results overwhelmingly reflect national swings of opinion for or against the incumbent government. He adds that there is an element of irrationality in the system in that incumbent parties may be removed irrespective of their responsiveness to local opinion. (Stoker G., The Politics of Local Government, London, Macmillan Education, 1988, p.47).

[189] Due to technical problems in the R293 townships, citizens are not asked yet to pay for their rates but in Ntuzuma, a former BLA which has been valued, residents are already threatening to withhold rate payments because the valuation rate is too high. (The Mercury, 20.02.1997).

[190] Interview with cllr D. M. Vahed, Alliance of Independent, elected on PR, former mayor of Estcourt, Estcourt, 07.08.1997.

[191] Interview with cllr Sipho Zulu, IFP ward councillor of Estcourt TLC, Estcourt, 07.08.1997.

[192] South Central exco meeting, 06.02.1997.

[193] Ibid.

[194] Exco meeting of the iNdlovu regional council, 19.11.1996.

[195] MINMECs are regular meetings held between the national minister in charge of a specific portfolio (here Constitutional Development and Provincial Affairs) and the nine MECs in charge of the same portfolio at provincial level.

that, following service disconnections and court action against defaulters, "in certain municipalities ... councillors have been harassed and intimidated". The following cases give an idea of the extent of the violence against councillors:

- The houses of four councillors in Gauteng and Mpumalanga were burnt down in July 1997, apparently in protest against electricity cuts after residents had failed to pay their bills;[197]
- In August 1997, the Colenso TLC (Northern KwaZulu-Natal) was without electricity and water after the municipal sub-station in the centre was sabotaged. The arsonists were believed to be residents whose electricity had been cut after failing to pay their bills;[198]
- In the Kokstad TLC, after the unsuccessful forced removal of the Shayamoya squatters because the land occupied was designed for formal development, MEC Miller stated that "external influence reversed the progress at the last moment. This resulted in confrontation and marches during which certain councillors were openly threatened."[199] Kokstad councillors were subject to further violent protests in connection with the border issue. If there is no doubt over the very political nature of the clashes that opposed the council and the Bhongweni Residents' Association, the level of violence against the councillors is nonetheless striking. The homes of three ANC councillors were petrol-bombed;[200]
- In Mandeni TLC, the bus that should have brought the Sundumbili councillors to the town hall for the inauguration of the council was cancelled because "some councillors feared that the bus could be ambushed"; [201]
- Finally, in the South Central local council, councillor Florence Mkhize was reported[202] to have been under 24-hour security at her home in Lamontville where she experienced intimidation. "An angry mob of land invaders, whose shacks were removed by the police in December stormed the South Central council's office in Lamontville. They were armed and asked the councillor to build them houses."

In the same way as the white community would prefer to deal with an administrator than with a council which seems to them biased, the Bhongweni Residents' Association of Kokstad suggested that the council be dissolved and an administrator paid by the province be elected to

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[196] Sunday Times, 14.09.1997.
[197] The Mercury, 22.07.1997.
[198] The Mercury, 25.08.1997.
[199] The Mercury, 07.04.1997.
[200] Sunday Tribune, 03.08.1997.
[201] Mandeni transitional local council, Minutes of the Council, 07.08.1996.
[202] The Mercury, 21.01.1998.

work in conjunction with the town clerk.[203] This kind of challenge to formal representative governance is justified by a specific vision of what democracy means. Crouzel[204] recalls that:

> *Liberation movements and civics developed a notion of democracy which questioned a system funded on elections and formal representation. They stressed the need for a parallel representation of social interests. This was used also by residents' associations among white middle class.*

3.2 - The question of payment of rates

The attitude of white ratepayers when it comes to increases in the council's rates has already been discussed. The threat of a boycott of payment is the mark of contestation of the council's legitimacy. Whether the boycotters argue that the flat rates in black areas discriminate against the white population or whether they simply argue that the increases are unbearable, the meaning of their actions is the same. They challenge - even if for the moment without real consequences - the right of the municipality to vote and apply its taxing policy because they do not trust its capacity to use their money efficiently or/and they contest its right to redistribute the money to disadvantaged areas.

On the other hand, black areas' residents are not paying their rates. MEC Miller warned that a third of KwaZulu-Natal councils needed to give urgent attention to balancing their books The service arrears situation in the province had grown larger and stood at R800 million in October 1997.[205] But what does the non-payment of rates in black areas mean exactly?[206] Can one draw a parallel between a contested legitimacy of the council and the councillors amongst the black community and their refusal[207] to contribute to the budget of the local authority?

Mattes and Taylor[208] contest the fact that there is any link between:

> *... a perceived legitimacy of local government and the compliance index (r = -.05)* [willingness to comply with unpopular policies]. *Nor is there any real relationship between performance evaluations of local government and willingness to comply with local government... Regardless of how it may have been interpreted during the struggle against apartheid, non-payment of rates and services at present does not*

[203] Sunday Tribune, 03.08.1997.
[204] Crouzel Y., 'Le vote et la négociation: democratisation du régime sud-africain' in Lacoste Y. (dir.), "La Nouvelle Afrique du Sud", Hérodote, No. 82/83, Paris, 1996, p.23.
[205] The Mercury, 28.10.1997.
[206] The non-payment of services is considered as the biggest threat to the existence of the new South African municipalities. Alarming reports are found virtually daily in the newspapers. In 1997, the money owed to municipalities had spiralled to R6.5 billion. Forty-eight councils had defaulted on their repayments to the Local Authorities Loan Fund (Business Day, 29.04.1997).
[207] We are only talking here of this portion of the population which has the financial means to pay its rates but refuse to do so.
[208] Taylor, Mattes, Public Opinion Survey Reports (3), p.7-8.

appear to be a statement about local government's right to lay obligations on citizens, nor is it a statement of their dissatisfaction with delivery... Rather, non-payment appears to stem from a willingness to "take the gap" if given the opportunity. If local authorities want to increase payment rates with regard to rates and services... [they] *need to eliminate opportunities to evade through better collection, monitoring, and enforcement.*[209]

They base their statement on the following table:[210]

Table No. 15: Potential Citizen Compliance

	Avoid paying rates (%)	Claim government benefits to which you are not entitled (%)	Obtain services without paying (%)	Participate in a boycott of rates, services, taxes etc. (%)
I would definitely do this	9	13	8	16
I might do this	24	15	16	28
I would never do this	61	67	70	49
Don't Know	7	6	6	6

It is true that local government is the sphere of government at which the majority of the population is asked to contribute directly to the public coffers. In theory, all the urban owners of property are expected now to pay for electricity, water, and the municipal services they enjoy. As a consequence, people are likely to be reluctant (and especially when they have not paid their rates for a long time or when they have never been asked to pay) to contribute to the municipal budget. But escapist attitudes cannot only be explained by the simple refusal to pay. What is interesting is to analyse why people do not find it necessary to pay.

According to Chipkin[211] the Masakhane campaign insisted on, at the beginning, the equivalence between loyalty to the state and loyalty to the local authority whereas there is:

... a differentiated notion of citizenship... the national and the local state are not identical and the citizenship of the one does not necessarily translate in citizenship of the other.[212]

The Masakhane is still nowadays based on a national discourse. A full page in The Mercury[213] sponsored by the two Durban central councils stated that Masakhane is about "*ubuntu* and building the country through *unity* and *solidarity*." Lydia Johnson, mayor of North

[209] Ibid., p.8-9.
[210] Ibid., table No. 4.
[211] Chipkin I., 'Citizenry and local government: a new political subject?' Indicator SA, Vol. 13 (1), Summer 1995, p.37.
[212] Ibid., p.38.
[213] The Mercury, 25.03.1998.

Central added that "it is through unity and solidarity that we could rebuild a new country... [one of the objective of Masakhane] is nation building". As there is not yet any sense of local citizenship or common belonging,[214] people do not hesitate to put in danger through bankruptcy, the sphere of government which is supposed to bring them local democracy and local development. Chipkin[215] argues further that the Masakhane campaign (because it is based on the assumption that the non-payment is a legacy of the rent boycotts in the 1980s and because it focuses on the theme of the interdependence of the communities - 'Let us build one another') is not sufficient and does not address the main problem which is the "durability of the 'non-state' in post wars situation."[216] This 'post war situation' is prevalent in the three towns[217] he studied in the East Rand. There, the local councils have to face:

> ... *the presence of durable and often powerful social and political networks that mediate between township/ hostel/ informal residents on the one hand, and council plans on the other* [he mainly identified the SDUs,[218] the street committees and the induna structures][219]

One can draw some parallels between this diagnosis and the situations in KwaZulu-Natal.

CONCLUSION

We have seen that in KwaZulu-Natal also, the councillors' legitimacy was contested in places where 'warlords' were ruling areas in what can be called a 'post-war situation'. We have also seen that in rural areas, a difficult relationship exists between elected councillors and amaKosi who still consider themselves as representative of the rural communities. The fact that elections took place in rural areas and that councillors and amaKosi are seating in the same decision making body, does not help for the moment. Clearly, each of the amaKosi has a defined idea of his "constituency" and his own vision of its legitimacy. On the other hand, elected councillors have neither a constituency nor the experience, nor the means to fulfil their duties. Other bodies such as CBOs, NGOs, development forums, can be a threat to the councillors' legitimacy. The problem will not be solved by eliminating the different structures representative of civil society. The real problems lies in the fact that councillors – and especially PR ones – do not feel legitimate to represent people and have not yet been able to define their role compared to other local bodies.

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[214] The subject will be treated in chapter 7.
[215] Chipkin, Thulare, The Limits of Governance, p.65.
[216] Ibid., p.66.
[217] Boksburg, Alberton and Germiston TLCs.
[218] The self-defence units were set up by the ANC following its 1990 unbanning to "defend" itself against the IFP in KwaZulu-Natal and PWV. SDUs were officially disbanded in the East Rand after the April 1994 elections. See Jeffery A., The Natal Story, 16 Years of Conflict, Johannesburg, South African Institute of Race Relations, 1997, p501.
[219] Chipkin, Thulare, The Limits of Governance, p.67.

In parallel, the communities are disappointed if not frustrated, by the lack of change in their daily lives. They judge their councillors on their results. Because there is no money to fulfil the expectations raised during the electoral campaign and because councillors are sometimes not allowed to fulfil certain functions which have a direct impact on the lives of the poorest, people are angry. In other circumstances, their anger could have translated into a few declarations in the press, demonstrations in the streets and petitions to the councillors. But South Africa in 1998 is a country which is a very new democracy. Anger is more likely to translate into threats and sometimes violent attacks, especially when local government is not taken seriously as a sphere of government by the communities and the other spheres and when local councillors are not able to give a good account of why people should obey them. As a councillor put it during a conference:[220]

> *The problem is not the non-payment but the lack of civic responsibility. We need to explain why local government is useful and legitimate, show why it is relevant.*

The role of a councillor is first to be able to inform the citizens about the measures taken in council and to explain them. Initiatives such as the R250,000 education campaign in some Inner West areas (Clermont, Klaarwater, Pinetown South, KwaDabeka and KwaNdengezi) about the payment of rates have borne fruit. For nine months, the council and a public relations company ran a series of over 600 focus group discussion meetings with 22,300 residents.[221] The CEO of the company employed states that "this strategy was very different from what other councils were doing - that is straight media advertising. Together with the council we were talking face-to-face with the people... The number of people paying has increase seven-fold, from 5% to 35%."[222] But the majority of the councils do not benefit from such resource and professional backing. It is difficult for councillors to explain measures when they are not themselves clear about them, especially when they are technical. The South central Treasury Department has considered organising workshops for the councillors to train them about the rates issue, so that they could explain it to their constituencies.[223] But most of the time, councillors are not empowered to fulfil their duties. In those circumstances, it is natural that the legitimacy of councillors - and as a consequence of the local authority itself - is questioned.

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[220] Institute for International Relations' seminar, The 1997 Local Government Summit, Midrand, 18 and 19 June 1997.
[221] Sunday Tribune, 03.05.1998.
[222] Ibid.
[223] South Central exco meeting, 06.02.1997.

Chapter 6
Councillors and local officials: a tense relationship

Elected representatives are legitimate because they have been voted into office by citizens. They are expected to be able to shape new policies according to what they stood for during the election campaign. Elections are supposed to put in place men and women in control of the decision-making process. This is the basis of a representative democracy. But one problem faced by every public representative (not only in South Africa and not only nowadays) is to define what "being in control" really means. Every MP, MPP or councillor, relies on the technical expertise of a corps of civil servants and the decisions of an elected assembly generally reflect this relationship. Weber's classic statement of the increasing importance of the technical function in representative government makes the point clearly:

> *Where the group grows beyond a certain size or where the administrative function becomes too difficult to be satisfactorily taken care of by anyone whom rotation, the lot, or election may happen to designate... The growing complexity of the administrative tasks and the sheer expansion of* [the mass structures'] *scope increasingly result in the technical superiority of those who have had training and experience.*[1]

Councillors find themselves facing officials who retain considerable power through expertise, information and access to secrets[2] and who are reluctant to obey politicians.[3]

According to Weber, this power can become 'overtowering' and politicians often find themselves very dependent on the bureaucracy.

> *The power position of a fully developed bureaucracy is always great, under normal conditions overtowering. The political "master" always*

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[1] Weber M., Economy and Society, An outline of Interpretative Sociology, New York, Bedminster Press, 1968, Vol. III, p. 951.

[2] The profession of town clerk was strictly regulated by the Town Clerks Profession Act (No. 75 of 1988). A person had to be in possession of certain qualifications and practical experience in order to register as a town clerk. Such prerequisites included: a suitable BA degree, and a diploma, which related to the theory and practice of local government, from a professional institution. Different topics were studied, such as the nature of local government, management science, planning, public policy, financial management, personnel management, management systems, electoral processes, and local management law. For a Grade 10-15 municipality, eight years of practical experience was required; for a Grade 5-9 municipality, five years was required; and for a Grade 1-4 municipality, three years. This now has now been abolished. The implications still need to be thought through, namely: what type of qualifications should be specified for town clerks ? How can one avoid the appointment of unqualified people?

[3] Huntington noticed the general administrative opposition to the involvement of political parties in the decision-making process: "The administrator... needs to rationalise social and economic structures. He is unwilling, however, to accept the implications of modernisation for broadening the scope of popular participation in politics... [For the officials], parties introduce irrational and corrupt considerations into the efficient pursuit of goals upon which everyone should agree." Huntington S. P., Political Order in Changing Societies, New Haven and London, Yale University Press, 1968, p.404.

find himself, vis-à-vis the trained official, in the position of a dilettante facing the expert.[4]

Sometimes it is difficult to draw the line between technical and political functions and often officials and politicians tend to infringe upon the territory of the other. This problem is not new at the local level and is common all over the world. Floyd reports[5] that in the 1950s, "many councillors, instead of being watch-dogs in the public interest, to see that officials impartially enforce the regulations, adopt an attitude of hindering the officials." Floyd, a municipal official himself, reproduces the classical accusation of councillors being more interested in their political career than in the benefit of the town and obstructing officials in the exercise of their duties. Hill writing about local government in England in the 1970s, also mentions the problem:

The Maud report[6] *points out that local councillors are mistaken in their belief that democratic government implies that to discharge their duties they must leave as little as possible to officers.* [7]

But the problem of the relationship between officials and public representatives has taken on dramatic proportions in local administration in post-apartheid South Africa. Serious criticisms about the attitude of local councillors have been voiced by more than one MEC for Local Government. Peter Marais (Western Cape) has accused councillors of intimidating officials: "There are several inexperienced councillors who are baying for the blood of officials from the old system.. Many of them are making the lives of town clerks hell."[8] In KwaZulu-Natal, MEC Miller addressing the local government portfolio committee of the provincial legislature, highlighted the same problem:

Unless we stop the haemorrhage of experienced staff it will become the biggest crisis in local government. There seems to be an unwillingness in some local authorities to accept advice from their officials.[9]

MEC Miller acknowledged that there were some recalcitrant officials but said the "shotgun approach" to attacking officials should stop[10]

This tension can be explained in the first place, by the fact that local administrations are much smaller than provincial or national ones. Officials and councillors know each other, which sometimes adds a personal edge to a council or an administrative decision. A more personal relationship exists between officials and councillors compared with the other spheres of government, and any threat posed to the continued employment of the 'old guard' officials

[4] Weber M., Economy and Society, Vol. III, p.991.
[5] Floyd T. B., Better Local Government for South Africa, Pietermaritzburg, Shuter and Shooter, n.d, p.132.
[6] Management of Local Government (The Maud Report), London, H.M.S.O, 1967.
[7] Hill D. M., Participating in Local Affairs, Harmondsworth, Penguin Books, 1970, p.179.
[8] Business Day, 18.11.1996.
[9] The Mercury, 15.04.1997.
[10] Ibid.

is directly attributable to councillors. The threats are indeed numerous because local government officials in South Africa are of ambiguous status - they work under a different set of rules from the officials in the public service, but they belong to the public sector.[11] As a consequence, most of the decisions concerning their conditions of employment are taken by the local councils. It is the local authority which pays the officials who advise councillors and they are appointed by the council. Affirmative action provides a source of tension in this personalised atmosphere. Local authorities have to set up and implement their own affirmative action policy and are not tied by provincial or national decisions. Each local authority is responsible for drawing up its own plan.

The face-to-face nature of local government then, greatly exacerbates the problems of coexistence between 'new' councillors and 'old guard' officials. The amalgamation of different municipal entities did not lead to a loss of staff. In general the administration of the white local authority was kept intact and the new TLCs absorbed as many of the staff employed by the KwaZulu government (R293 townships) or BLAs as they could.

The problem in the relationship between officials and councillors is in the first place a classical question of control, but it is accentuated by the lack of knowledge and expertise of the new councillors. As councillors feel undermined by their officials and distrust them, they adopt the solution of appointing new ones where possible. This solution is not satisfactory because complementary aspects of transformation are often disregarded. It is not sufficient to change the people and councils have for example to take into account the training needed by the officials, not only about the nature of the changes, but also about how to cope with them. Moreover, it is necessary for councillors to be in possession of indicators to assess this transformation process.

1 - Why is the situation so tense?

1.1 - The councillors' perceptions

Interview responses generally gave the impression of an adversarial relationship between councillors and officials. At worst, each piece of advice coming from officials is suspected of serving a hidden agenda. This has hindered the effectiveness of several initiatives aimed at helping the new councillors, especially the training sessions organised by the local administrations. Just after the elections, a Ladysmith/Emnambithi councillor present during a training session organised by an independent NGO[12] admitted that the first training they received "was about strategic planning and council orientation. But it was but run by officials

[11] I am grateful to P. S. Reddy, Public Administration Department, UDW, from bringing this point to my attention in a telephonic interview, 19.01.1998.

[12] Interview with a Ladysmith councillor during the training organised by the International Republican Institute, Ladysmith, 23-24.11.1996.

from the town... councillors were misled". The mistrust continues up to today. A Zululand regional councillor said more recently:

> *In the regional council, we have to battle against the officials who are whites who benefited from apartheid. When the councillors are complaining about the lack of training I tell them 'who do you think is going to train you? you should not expect anything from the officials'!*[13]

1.1.1 - Officials as 'agents of the apartheid regime'[14]

Most of the officials[15] interviewed have been working for their municipalities for very long periods. The South and North Central councils' CEO[16] has been working for the city for 39 years. He was the Executive Director of Corporate Services before occupying his present post. Mandeni's town clerk[17] has been working for the town since the town board was set up (1970). The present Outer West CEO knows the area because he was Borough Administrator of Queensburgh.[18] In Outer West, the CEO was the Kloof town clerk between 1975 and 1991 and then the Pinetown town clerk from 1991 to 1995.[19] Even those who are new in their specific local authority have a long history of involvement in local government. The present Ladysmith CEO[20] worked in Lenasia South East (now in the Johannesburg metropolitan area), in Bekkersdal, Fochville and Randfontein, before coming to KwaZulu-Natal. Mr Rademan, the Ulundi CEO is the former town clerk of Welkom and belonged to several local government bodies.[21]

The fact that many officials were in their local government posts well before the new councillors were elected in office has several consequences.

First of all, white officials served the apartheid government, implemented apartheid policies and provided services to their own racial group. The needs of people in black, Indian or 'coloured' areas which were outside the white local authority boundary, were not their

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[13] Interview with a Zululand regional councillor.

[14] The material discussed in this section refers largely to urban areas. In regional councils, most of the IFP councillors interviewed did not criticise their officials. The latter were JSB employees and rejecting them would have meant criticising an IFP-supported structure. Besides, the typical accusation of only servicing white areas does not hold against the JSBs, since they aimed at providing services to areas with the greatest needs and did attempt to provide services to tribal areas.

[15] Some officials interviewed were new in their post (the town clerks of Bergville, Kokstad, Vryheid, Estcourt) either because they previously worked in a local authority which no longer exists (in what is now the metropolitan area of Durban) or because they resigned from their old position due to 'political conflict with the new council'.

[16] Interview with Mike O'Meara, CEO of South Central and North Central local councils, Durban, 14.02.1997.

[17] Interview with Mr Press, town clerk of Mandeni TLC, Mandeni, 14.07.1997.

[18] Interview with Gerald Strydom, CEO of Outer West local council, Kloof, 12.05.1997.

[19] Interview with Hercules Hattingh, CEO of the Inner West local council, Pinetown, 06.06.1997.

[20] Interview with the town clerk of the Ladysmith/Emnambithi TLC, 26.11.1996.

[21] The professional board of town clerks (he chaired the registration committee) and the Remuneration Board (he sat on the exco).

concern. Officials are considered by councillors as promoters of past policies and NP placemen. The politicisation of officials is common wherever there has been effective one party rule. According to Peters:

> *It is easy for civil servants to become politicised. This politicisation may be inadvertent, as in the case of a single political party being in office for a long period of time. When there is a change in ruling parties, the new political executives frequently find that the civil service is populated by individuals who agree with the policies of the previous government.*[22]

Even if this is not necessarily so in individual cases, this general presumption is a powerful political force shaping mutual perceptions of representatives and officials. In South Africa, this is all the more unacceptable for the new councillors given the nature of past policies. A Durban official stated that at the beginning, councillors seemed to have expected to find "something racist and aggressive like the security police in the officials running the city."[23] A Ladysmith/Emnambithi councillor confirms this:

> *There is a conflict with the administration. They do not understand the thinking of people who have not been exposed in the past to local government. The officials come from a cocoon of entrenched apartheid ideas.*

Councillors often complain that officials are still taking care of the old white core of the town and are not interested in providing services to the newly amalgamated areas. According to a Pietermaritzburg/Msunduzi councillor, when street lights are needed in an Indian area, the officials reply that there is no money but the white areas are still looked after.[24] In KwaDukuza, a councillor accused the borough engineer of "working in the NP wards."[25] A Durban councillor was even more vehement, stating that officials are conspiring in order to destroy the credibility of a black local government:

> *The majority of officials are white and belong to the NP (some of them are Indians but they play an unclear game, sometimes working with the whites, sometimes with the blacks). They have their own agenda so that in 1999 they could show what the NP has done for the white areas and they would do nothing to improve the status of life of black areas... For example, Indian and white houses have been upgraded before sales whereas black houses not. Officials told us that it could be done in 97/98*

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[22] Peters B. G., 'Politicians and bureaucrats in the politics of policy making', in Lane J-E (ed.), Bureaucracy and Public Choice, London, SAGE Publications, 1987, p.263

[23] Anonymous interview with a Durban official.

[24] Interview with a Pietermaritzburg/Msunduzi TLC councillor.

[25] Interview with a KwaDukuza/Stanger TLC councillor.

but there is no assurance... It is unfair to have well-serviced people surrounded by people who are not.[26]

So powerful are these racial perceptions that white officials are accused of serving 'their own' communities, where there is none to serve, as the response of an Ulundi TLC councillor made clear: "in the TLC as well as in the RC, you have white Afrikaners working. They will look after the interests of their community, not ours."[27]

Only for a minority of councillors, the fact that officials have been working for the local authority for a long time is an asset.[28] For most of the newly-elected councillors who were interviewed, this means that the officials have their little fiefdom well entrenched, sometimes based on corruption and nepotism. A Ladysmith/Emnambithi councillor sees officialdom as a web of family contacts, claiming that: "30 or 40 couples are working in the municipality and this has become a family business."[29] This accusation was common in other responses. An Outer West local councillor feels that the local council is in:

... need of transformation because the officials still operate like in the past. For example, for quotation and tender, the officials still give the job 'to the old guard.'

1.1.2 - Officials as the power behind the throne

In the week following the November 1995 elections, the Gauteng Premier, Tokyo Sexwale told a gathering of newly elected ANC councillors that "the ANC is committed to ensuring that political responsibility lies where it belongs - with the people" and that the days were past when officials ran the structures.[30]

Officials are not only accused of having their own secret and political agenda. They are also the 'natural enemy' of the elected representatives because they tend to decide about policy on their behalf, usurping their functions and making a mockery of representative democracy.

Councillors feel that officials are using and abusing of their knowledge, expertise and power in order to make their own decisions. The fact is that the will of politicians cannot override the law, nor the availability of resources, nor the professional expertise of officials. The law can in any case only provide limited guidance about how officials ought to behave, since it is full of interstices that someone must fill in. But according to the newly elected

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[26] Interview with a Durban councillor. This accusation was echoed by an Estcourt councillor who stated that the town clerk' s aim was to "destroy the TLC in the three years he will spend here."

[27] Interview with an Ulundi TLC councillor.

[28] For cllr Beningfield, there is no problem of mutual suspicion between the administration and the councillors in Mandeni and it is an asset that the town clerk has been present since the formation of the town board. (Interview with cllr Beningfield, chairman of the exco of the Mandeni TLC, Independent, Mandeni, 14.07.1997).

[29] Interview with a Ladysmith/Emnambithi councillor.

[30] Gotz G., 'Local elections 1995', Indicator SA, Quarterly Report, Vol. 13 (1), Summer 1995, p. 27.

councillors this has led to much abuse in the past. If the previous councils were happy with it, the new incumbents are not ready to let officials continue to 'run the show'.

New councillors do not miss any opportunity to re-assert their will to control the officials. Nceba Faku, then chairperson of the Port Elizabeth TLC's executive committee, made it very clear:

> *The role of councillors has shifted from "city father" to that of being a leader. Municipal officialdom has over the years usurped the leadership role in local authorities, confining the councillor's role to that of a "city father figure". These councillors, ruled by officials, were required merely to attend the statutory number of monthly council and committee meetings to rubber-stamp the recommendations of the officials.*[31]

Purcell's observations[32] about the Durban city council at the beginning of the 1970s confirm the vision of local representatives dominated by bureaucrats. According to him, one of the major characteristics of the political process in Durban was:

> *... the bureaucratic dominance. Nearly all decisions are initiated by the bureaucracy and nearly all decisional outcomes reflected the concern of municipal bureaucrats for technical, planning and "good government" criteria.*[33]

In the 1980s, according to Peter Mansfield, "whether this has to do with the James Commission or not, the councillors' attitude was very accommodative towards the officials. If councillors wanted to take some progressive decisions concerning the city, officials' objections concerning the legality were sufficient to drop the issue. If there was an imbalance on the relationship between officials and councillors, it was the councillors' fault."[34]

Since the 1996 elections, councillors have re-affirmed, even if awkwardly, their power of decision. Many accusations of officials hiding the reality to councillors and taking decisions instead of them have surfaced in council chambers. Durban councillor Sishi complained to the press about the slowness of the Durban Point Waterfront project, alleging that "city officials and Rocpoint [the developer] were liaising privately and councillors were being kept in the dark."[35] During the first 1997 executive indaba (exco) of the Pietermaritzburg/ Msunduzi

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[31] Faku N., 'City father to leader', in Graham P. (ed.), Governing at Local Level, A Resource for Community Leaders, Rondebosch, IDASA, 1995, p.25.

[32] Purcell J. F. H., Durban, South Africa: Local Politics in a Plural Society, PhD, Los Angeles, University of California, 1974.

[33] Ibid., p.xii. This state of affairs was the product of a particular history. The author sees in the James Commission (1966) set up to fight corruption among councillors, the turning point when "the focus of decision-making shifted away from the council and into the hands of those city officials who headed the critical departments, notably the town clerk, city treasurer and city engineer". Ibid., p.56.

[34] Telephonic interview with Peter Mansfield, (20.05.1998) who was a Durban city councillor in the 1980s.

[35] The Mercury, 14.05.1997.

TLC,[36] councillors discovered that some consultants appointed by the pre-interim council to draw an integrated development framework for the town (a document known as the 'grey book') had been continuing to work for eight months without being paid after their contract expired. The town clerk took the liberty of employing them without referring the matter to the council and was asking them during the exco meeting to foot the bill. This gave the opportunity to councillors across the political spectrum[37] to crack down on officials. They complained that they have always to take sensitive decisions under pressure from officials, who release important information at the last moment.

Criticisms are voiced in the council chamber against white officials because they are the ones who occupy the top positions, but lack of accountability also concerns black officials. Those who used to work for BLAs or R293 townships have not been in the habit of receiving orders from the council. Besides, with the problems of amalgamation of staff from different administrative entities, demotivation runs high. Black councillors do not feel they have any control over the black officials in the townships' decentralised offices.

Councillors frequently expressed frustration on this score. Councillor Maphalala complained[38] about the total inaction of the administration after a water pipe burst in Ntuzuma: "I got tired of phoning, they are taking their own time". O'Meara reports[39] that "the mayor of the Southern local council came to visit Umlazi and wanted to see the township manager. He replied that he did not have time to see her and that he did not care if she was the mayor or not." In the Durban area, several hundred provincial government staff placed under control of Durban local authorities in September 1996 were reported to be refusing to work or to obey orders from council officials.[40] In some cases, councils had to hire contractors to do urgent repairs because the staff refused, for example, to fix burst water mains, blocked sewers or deal with queries from residents.[41] In Kokstad, the incorporation of the former BLA staff (from Bhongweni) was hindered by a problem of pension funds. Serious discipline problems were reported, and Bhongweni staff closed their office during Christmas without telling anyone.[42] In Estcourt, the TLC had to insist that the Wembezi staff follow the proper procedures, for example that when they wanted to go on leave, they fill an application form. "We had to make them understand that the TLC had to agree to everything."[43] Trivial as these individual

[36] Pietermaritzburg/Msunduzi executive indaba, 21.01.1997 attended by the researcher.
[37] When it comes to the control of the decision-making process, black and white councillors are ready to fight the officials together. A DP councillor stated: "I am not considered by the officials as being on their side because I am white. They look at me as a councillor, a politician, someone that talks a lot but do not know the reality." (Interview with cllr P. Reid, DP ward councillor of the Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 21.01.1997).
[38] Interview with cllr M. J. Maphalala, IFP ward councillor, member of the exco of the North Central local council, Durban, 11.06.1997.
[39] Interview of Mike O'Meara, CEO of South Central and North Central local councils, Durban, 14.02.1997.
[40] The Mercury, 28.02.1997.
[41] The Mercury, 28.02.1997.
[42] Interview with cllr Gartrell, DP Kokstad councillor, former mayor of Kokstad, 21.02.1997.
[43] Interview with Mr Marais, town clerk of Estcourt, Estcourt, 06.08.1997.

examples might appear, there is a pattern to these problems of amalgamation. The pattern exists because in the former R293 townships, officials are still provincial employees and resist orders from the councillors who they do not consider as legitimate. Despite the fact that they are officially "under the control of the local authority", they are still paid out of provincial resources (salaries and benefits are still carried by the KwaZulu-Natal provincial administration - KZNPA - until such time as enabling legislation is in place to facilitate the transfer of staff).[44] In addition, former R293 township staff has tended to be unmotivated and under-productive The situation has not been helped by totally inadequate staffing records[45] and labour disputes which have slowed the effective take-over of the former townships.[46]

1.2 - The pressure exercised on the officials to 'change'

The Green Paper and the White Paper on local government emphasise the importance of top officials in the transformation process[47] and the need to have good relationships between the political head and the administration:

> *The CEO and senior officials play a particularly important role in providing leadership for administrative transformation, promoting new attitudes and approaches, and managing the implementation of programmes and policies. It is therefore critical that the chief executive officer and the first three reporting levels of senior management have the full confidence of the council.*[48]

Terms like 'change' and 'transformation' were widely used by local councillors during the interviews, especially when they talked about local officials. They referred broadly to the necessity for officials to be accountable and changing their 'approach' to their job. The latter

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[44] Estcourt transitional local council, Minutes of the Council, 25.09.1996.

[45] In some local authorities, the number of staff to be incorporated was simply unknown. In the Eshowe TLC, in July 1997, the administration had no clear idea of the extent of the amalgamation: "we do not know exactly how many people (around 200?) nor where they are." (Interview with Mr T. S. Williams, town secretary, Eshowe TLC, Eshowe, 15.07.1997). In Mandeni TLC, the number of employees in Sundumbili was not known by the town clerk in July 1997. "It should be around 170". (Interview with Mr Press, town clerk of Mandeni TLC, Mandeni, 14.07.1997).

[46] Natal Witness, 26.03.1997.

[47] "The CEO within developmental local government is also a strategic manager, focusing the resources and capacity of the organisation on core policy goals, building teams and facilitating partnerships, and providing leadership for transformation". (Ministry of Constitutional Development and Provincial Affairs and the White Paper political committee, Green Paper on Local Government, Pretoria, October 1997, p.61).

[48] Ministry of Constitutional Development and Provincial Affairs and the White Paper Political Committee, White Paper on Local Government, Pretoria, March 1998, p.103.

are expected to ensure that it is councillors who take the political decisions and should become 'developmental'.[49]

1.2.1 - An increased accountability

Stoker, writing about England in the 1980s, describes a situation where the relationships between councillors and officials are characterised by tension and conflict. This is very similar to the South African situation at the end of the 1990s:

> *In the current period of more assertive party politics the tendency for councillors to challenge officers has increased...* [The] *areas* [of conflict] *include: the processes of agenda setting for committees; the redrafting of reports; and the appointment of officers. Councillors are more likely to expect free access to all departmental officials rather than feeling obliged to operate through a chief officer... senior councillors have become more assertive in their relationships with senior officers... however... in many smaller authorities and those dominated by independents the nature of councillor-officer relationships has not changed with senior officials still dominant and controlling.*[50]

In South Africa, at least in the medium to large towns, councillors are pressurising officials more and more for information and results.

1.2.1.1 - Accountability to the councillors

As we have seen, councillors are very sensitive on the issue of 'who rules' and 'who takes the decisions' They are part of the first democratically elected local councils encompassing all South Africans and they are not ready to let officials decide according to what the councillors perceive as their rule-driven - and sometimes 'racist' - approach. Local officials have to spend an increasing amount of their time keeping the councillors informed. This is partly because of councillors' suspicions, but also because it is a way of empowering councillors who have never been exposed to local government and to the specific problems of the local authority they are supposed to head.

This leads to a lot of pressure on the officials who spend nearly all their time in various meetings (working groups, standing committees, executive committees, council meetings...) because they have to inform and guide the councillors in their decisions. According to the

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[49] We have already emphasised the fact that this notion covers many aspects. In general when using it, one refers to the promotion of economic growth but also social development; integration and co-ordination of development; and democratic participation.

[50] Stoker G., The Politics of Local Government, London, Macmillan Education, 1988, pp.87-89.

Mandeni chairman of the exco,[51] the town clerk spent one month on medical leave because he could not cope with the meetings and his own work.[52] This was confirmed by councillor Meyer[53] who stated that the Pietermaritzburg/Msunduzi officials are present in all the functional as well as working committees: "that is why they are stressed, they cannot do their job properly".

The main consequence of officials having to inform councillors of every event, is in the slowing-up of the decision-making process. Clearly, however, councillors are ready to pay the price. In the iNdlovu regional council,[54] the CEO complains that fewer projects are getting off the ground because of lengthened procedures:[55] "Before, in the JSB time, the implementation was left to the officials. Now the councillors demand transparency through consultation at every juncture."[56] The chairman of the same local authority believes that this system is necessary to fight "tooth and nail" the technicians, as officials' culture of 'lateral decision-making' is "difficult to unbundle."[57]

Officials are also held accountable by councillors for the results of policy decisions and they have become (perhaps too often) easy scapegoats. Officials are confronted with daily crisis because they lack proper financial and technical means to assume the new developmental role councillors would like to see fulfilled by their local administration. The majority of town clerks/CEOs interviewed complain that they are forced to be solely reactive, that their time is spent in "crisis management."[58] But the councillors are not ready to accept these kinds of excuse. Despite the allegations of the Pietermaritzburg/Msunduzi director of the Waste Management Department that he was under-resourced, "with 40 posts standing vacant for the last six months" and that his department is "currently implementing a plan which will give priority to attending to the major arterial routes",[59] Mayor Latiff stated to the press that he was going to summon the heads of both the Parks and Recreation Department and of the city's Waste Management team for an explanation about the shortcomings in their divisions. Latiff said that officials should not hide behind excuses of being under-resourced.[60] This incident took place one week after the city Planning Department came under fire in an executive

[51] Interview with cllr Beningfield, chairman of the exco of Mandeni, Independent, Mandeni, 14.07.1997.
[52] "95% of his time and the time of his heads of department is spent in meetings". Ibid.
[53] Interview with cllr G. J. N. Meyer, NP councillor, member of the exco of the iNdlovu regional council and member of the exco of Pietermaritzburg/Msunduzi TLC, 01.04.1997.
[54] The following example was developed in a document elaborated by Data Research Africa-Development, for the White Paper on local government (Case Study: iNdlovu Regional Council, unpublished, September 1997.)
[55] "Once exco approved an application, a letter is sent to the councillors from the relevant area which he and the community must sign as an approval.", Ibid.
[56] Andre Els, iNdlovu regional council CEO, Ibid
[57] J. M. A. Ngcobo, chairman of the iNdlovu regional council, Ibid.
[58] Interview with Mr Press, town clerk of Mandeni TLC, Mandeni, 14.07.1997.
[59] Natal Witness, 29.01.1997.
[60] Natal Witness, 29.01.1997.

indaba[61] because of its continuing employment of consultants. While the head of the city Planning Department justified himself by the fact that "the department is understaffed and the personnel work more than they should without being paid", the mayor responded to him:

> *The department is responsible and the council has no more confidence in the head... It is the first meeting of 1997 and there is no time to waste. The council is going to check all the activities of the Planning Department to get its acts clear. We do not want the department to be only a place where consultants are appointed.*[62]

The pressure is sometimes too strong for the officials to handle. Increased incidence of sick leave - often on psychological grounds - has become common, attributed by officials to pressures from the new councils. In Pietermaritzburg, the tensions forced several senior officials to temporary leave their posts on medical grounds. The CEO was treated for depression.[63] After a vote of no-confidence from the Land Use and Housing indaba, the head of the corresponding department was taken ill and spent at least two months out of office.[64] Rural local government is also marked by this phenomenon, with the head of the uMzinyathi regional council Administration Department, resigning "out of pressure from councillors."[65] It is rather difficult to estimate the extent to which these leaves are the result of the challenges inherent to the new functions of their local authorities or of the abuse by councillors. However, all the interviews of top officials as well as their attitude in council meetings, revealed their deep frustration and dissatisfaction regarding their capacity to fulfil the tasks expected from them. Because they have to combine the role of technician with that of informant, giving guidance to councillors, they cannot discharge either of them adequately.

1.2.1.2 - Accountability and responsiveness to the public

The definition of the term 'transformation of local government' for the Inner West local council's CEO is "a shift from a bureaucratic to a people orientated approach. We need to provide a real service."[66]

In line with this, officials are asked to be open and responsive to the public need. They are required to integrate notions of democracy, participation, transparency, quality not immediately associated with the bureaucrats' role as traditionally understood. Samoff studied Tanzanian local government at the beginning of the 1970s at a moment when the local tier was

[61] Executive indaba (exco) of the Pietermaritzburg council, 21.01.1997. The researcher was present.
[62] Omar Latiff during the executive indaba of the Pietermaritzburg council, 21.01.1997.
[63] Interview with a Pietermaritzburg/Msunduzi councillor.
[64] The Land Use indaba called for his removal because of the non-arrival of an outstanding land audit report and because the head was not present at the indaba meetings. Daily News, 11.02.1997.
[65] Interview with Mr Winston Mngomezulu, CEO for uMzinyathi regional council, Ladysmith, 16.05.1997.
[66] Interview with Hercules Hattingh, CEO of the Inner West local council, Pinetown, 06.06.1997.

also expected to be a channel to promote popular participation in the decision-making process. He argued that there were new goals to promote, "tangential to usual bureaucratic concerns"[67] and officials had to reject "the insulation" in which they lived, they must "move out into the community as leaders to develop the formal and informal contacts necessary to co-ordinate the flow of resources to achieve these goals."[68] The same is expected today from South African officials.

In post-apartheid South Africa, this transformation means firstly to take cognisance of the fact that expertise and technical logic are not the only criteria according to which a decision can be made. Officials have to learn to deal with sensitive political issues and to back down if necessary. An example was the opening of Alamein Avenue between Chatsworth and Montclair (south of the Durban CBD). Indians accused the former whites-only city council of having closed the road in 1969 in order to prevent non-whites from passing through Montclair.[69] The proposed re-opening was put before the South Central exco in July 1997 but Montclair residents complained that the traffic "into our ward will seriously interfere with our amenities and privacy and that property values would be affected."[70] City officials claimed also that it was not a good long-term option and that the re-opening of the avenue to traffic would attract too many vehicles.[71] However, this was the only time they took part in a debate which became so heated that the Minority Front called for the "apartheid road" to be reopened[72] and Rajbansi[73] stated that to pay R750,000 for the reopening was "too cheap a price to be paid for the trauma" experienced by Chatsworth residents.[74]

Officials are asked to take into account the will of the population but also to be user-friendly, and initiate processes of consultation. This is not easy because, not surprisingly, 'new councillors'' suspicion of officials is shared among their constituents. Contrary to the situation in England where citizens are accustomed to dealing with officials,[75] people in black areas and to a lesser extent in the white areas, do not first approach an official when they have a complaint to lodge. Their first move is to see their councillors because "the people have a very bad experience of officials, they are sent from one department to another"[76] or "because people

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[67] Samoff J., Tanzania: Local Politics and the Structure of Power, Madison, The University of Wisconsin Press, 1974, p.87. Samoff's observations of the Tanzanian situation and of the challenges faced by officials and councillors are not very encouraging. See for example in chapter 8, p.317.
[68] Ibid.
[69] The Mercury, 23.07.1997.
[70] Ibid.
[71] The Mercury, 2506.1997.
[72] The Mercury, 26.06.1997.
[73] Leader of the Minority Front and MPP.
[74] The Mercury, 09.07.1997.
[75] The Maud Committee found that individuals are more likely to make their first approach to an official than to a councillor. "Individuals see that the service comes to them through officers and it is logical therefore to go to them for advice". Hill D. M., Participating in Local Affairs, p.71.
[76] Interview with cllr P. Reid, DP ward councillor of the Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 21.01.1997.

are afraid."[77] According to councillor Vahed, "people [Indians and Africans] do not contact the officials because of their past experience with them. There is an automatic antagonism, an in-born fear."[78]

In Durban,

> *Indians and whites tend to go first to the department to complain about a problem whereas black people tend more to contact their councillors directly. That could be explained by the fact that they did not get any help from black officials in former R293.*[79]

In order to erase this bad image, officials are expected today to hold meetings in the community or meet representatives of civil society in a more formal way, for example through their participation in council sub-committee meetings. But despite the call from the White Paper to "involve 'structured stakeholders' in certain council committees",[80] it was only in Ladysmith and Eshowe that the researcher found that communities are invited to give their opinion on a project along with officials and ward councillors during sub-committee meetings.

1.2.2 - Officials are expected to be 'developmental'

Officials are supposed not only to be accountable and transparent to the councillors and the citizens, they are also required to change the nature of their job. Whereas before the 1996 local elections, white officials were in post to provide services to the white community, since 1996 they are being asked to bring 'development' to black and Indian areas.

1.2.2.1 - New territory

As we have already seen, since 1971 and the creation of the Administration Boards, white local authorities have not administered black and Indian townships. Hence, for most officials, they are totally new areas, from a social as well as a geographical point of view. In 1993, Christianson and Friedman pointed out that it could not be assumed *a priori* that:

> *WLAs officials will be able effectively to administer townships whose problems, needs and political dynamics may be very different to those in WLAs areas.*[81]

The mayor of the North Central local council echoes[82] this point of view:

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[77] Interview with cllr M. P. Kathide, ANC ward councillor, exco member of the Ladysmith/Emnambithi council, Ladysmith, 20.08.1997.
[78] Interview with cllr D. M. Vahed, Alliance of Independent, elected on PR, former mayor of Estcourt, Estcourt, 07.08.1997.
[79] Interview with Mike O'Meara, CEO of South Central and North Central local councils, Durban, 14.02.97.
[80] Ministry of Constitutional Development, White Paper, p.34.
[81] Christianson D., Friedman S., Strong Local Government in South Africa: Exploring the Options, Johannesburg, Urban Foundation Research Report 2, March 1993, p.13.

> *The administration was used to service a small number of people and a kind they knew* [whites] *whereas now, there are more people and new clients whom they do not know.*

The difficulty for officials is first to deal with an increased number of people[83] and secondly with people about whom they know nothing. Councillors are complaining that "officials do not understand the dynamics in a township"[84] or that "they do not know the newly integrated areas."[85] What is also asked from the officials is not only to provide services and but to listen to their new constituencies and to explain to them their actions:

> *We have to think in a new way about what priorities are in the black areas. We have also to educate people on where the service comes from so that they can take care of the installation... People in black areas do not have the same priorities as in white areas, they would prefer for example electricity to clean water. And they do not realise either the cost of the service.*[86]

This response makes clear the strength of officials' and technicians' individual social perceptions and the way they use them as guidance in re-interpreting their roles. Officials are asked to adapt to standards and priorities which are foreign for them. A classical example is given by a letter sent by the deputy-mayor of the South Central local council to the Traffic Department, about the need to install speed humps in Chatsworth. The department answered that this could create a problem of noise and of wear and tear on tires.[87] Despite the serious problem caused by speeding in Chatsworth, in the eyes of the councillor concerned, officials are still looking at problems from the standpoint of people living in white suburbs where roads are better maintained and children do not play in the streets.

Even the former white town which they used to deal with has become a new territory for the officials. Local administration has to adapt to urban realities which they did not have to face. White local authorities were protected until recently by the increasing 'informal

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[82] Interview with cllr Lydia Johnson, mayor North Central local council, ANC PR councillor, Durban, 08.05.1997.

[83] "Officials simply cannot cope with their work because they used to deal with a small white local authority and not with a population and a surface which sometimes have multiplied by ten". Interview with Craig Allan, Urban Strategy Department, metropolitan council, 25.03.1997. For example, Newcastle TLC's new boundaries comprise 300,000 inhabitants whereas the old council covered only 46,000. Interview with cllr W. Schoeman, Independent councillor, member of the Newcastle TLC, 21.04.1997.

[84] Interview with cllr A. Shaikh, councillor in the Greytown TLC, Greytown, 11.09.1997.

[85] Interview with cllr K. P. Chetty, ANC ward councillor of Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 21.01.1997.

[86] Interview with Mr Nel, town engineer, Ulundi, 21.07.1997.

[87] Interview with cllr Rajbally, deputy-mayor of South Central local council, MF ward councillor for Chatsworth, Durban, 04.03.1997.

organisation of African urban areas' that the World Bank noticed in 1989.[88] For example, local authorities have to cope with increased numbers of informal street traders.[89] Officials will have to find imaginative ways to make the most out of this 'informalisation'. For example, local authorities can use small-scale enterprise in the provision of public services such as waste removal. As the World Bank noticed:

> *While most of* [African] *anglophone countries rely on a public cleansing service which is integrated with some regular department of the local authority, alternative approaches are for local authorities to engage in a joint venture with a private firm to sub-contract the work to local entrepreneurs.*[90]

1.2.2.2 - New approaches

Officials in local administrations are expected to evolve toward better management practices. The idea is to enhance performance, responsiveness and accountability by:

> *... empowering, challenging and motivating managers at all levels to be leaders, visionaries, initiators and effective communicators and decision-makers, capable of responding pro-actively to the challenges of the change process, rather than acting as the administrators of fixed rules and procedures.*[91]

This ambitious discourse means firstly that the rules are not to be followed blindly and that space must be created for innovative approaches. The Ladysmith/Emnambithi CEO appointed by the new council states:

> *The last town clerk resigned because he did not want to be part of change. He was rule-driven. He had a honours degree in Public Administration and thought 'here are the rules, this is accountability, responsibility...' whereas now in our society the setting up of rules must be people-driven and you have to listen to the people... The price is corruption, lack of security etc., but things will come right, I am confident.*[92]

In this new conception, the officials' job will not be to follow the rules or to exercise control but to design the process which will enable the local authority to achieve new goals.

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[88] See Economic Development Institute and The Africa Technical Department of the World Bank, Strengthening Local Governments in Sub-Saharan Africa, EDI Policy Seminar Report, No. 21, 1989.
[89] Durban has chosen to formalise their presence by providing stalls against rent payment.
[90] Economic Development Institute and The Africa Technical Department of the World Bank, Strengthening Local Governments in Sub-Saharan Africa, EDI Policy Seminar Report, No. 21, 1989, p.94.
[91] Ministry for the Public Service and Administration, White Paper on the Transformation of the Public Service, Pretoria, Government Gazette, Vol. 365, No. 16 838, 24 November 1995, p.48.
[92] Informal talk with D. J. Vermeulen, chief executive of the Ladysmith/Emnambithi TLC, 16.05.1997.

The Inner West local council has responded to this conceptual shift by creating a post of executive director for planning and development to manage the passage from service delivery to development and strategic planning. "We are no longer working on a one-year basis but on the long term."[93]

This also implies a break in the departmentalist approach and a new 'global' view of the problem of service provision. One of the new functions of the CEOs is to ensure this cross-departmental co-ordination. In Ladysmith/Emnambithi, the CEO is aware of it:

> *My principal task is now co-ordination. I ensure a technical co-ordination between the heads of department so that we have co-ordinated development. I also look after the political co-ordination between the officials and the council's directives. We need to be sure that everyone is going the same direction and that there are no political blunders, because you need only one incident caused by an official for councillors to feel undermined.*[94]

He has introduced "management meetings" to ease communication between departments. They give opportunities for all heads of departments, but also down to the heads of sections, and the chiefs of administration of eZakheni and Steadville to meet together to discuss current issues.[95] In the Inner West local council, a post of Masakhane co-ordinator has been created. It is a "political post which should bring together the different departments that deal with Masakhane issues."[96]

1.2.3 - Some positive signs

Some officials and councillors seem ready to meet the challenges which are lying ahead. Whereas in the majority of the local authorities visited for this study, the tension was obvious between officials and councillors, in a few of them, the picture was not so dark. After two years of exercise - or rather apprenticeship - of power, councillors are finding themselves in very different situations from one local authority to another, but if councillors and officials are continuing to accuse each other of being responsible of the crisis situation local government finds itself, they are more and more conscious that if they do not work as a team, the boat they are in is likely to 'sink'. Even if it is too early to draw any meaningful conclusions, it is noteworthy to elaborate on the municipalities where positive signs seem to emerge. It is always difficult for an observer to distinguish trends amid observations of very different and particular local situations.

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[93] Interview with Hercules Hattingh, CEO of the Inner West local council, Pinetown, 06.06.1997.
[94] Informal talk with D. J. Vermeulen, chief executive of Ladysmith/Emnambithi TLC, 16.05.1997.
[95] Interview with D. J. Vermeulen, 20.08.1997.
[96] Interview with Hercules Hattingh, CEO of the Inner West local council, Pinetown, 06.06.1997. See chapter 9, p.390 for more details.

In Durban, despite the criticisms of councillors discussed above, there seems to be an increasing sense of common purpose, at least between the councillors and the senior/metropolitan officials. According to a Durban official:

> *There was an initial period of mistrust after the last elections, lasting about six months at the most, which was rapidly overcome, mainly (and this is important) by the pressure of work. Those councillors who worked closest to officials were quick to develop a good working relationship. Those who did not actively participate took the longest to realise that officials were not working to some secret racist agenda.*

This improvement in the relationships between officials and councillors is partly due to the efforts of the Durban Strategic Planning Unit, set up by the metropolitan council. This new unit composed of long standing local government officials at the top positions, employs young and dynamic people bringing in different and much needed expertise in economics, sustainable development or sociology.[97] They helped to bridge the gap between administration and councillors in order to create a common vision between the different technical departments. According to one employee:

> *I am trying to be as transparent as possible with the councillors but it is not my fault if the departments do not present sufficient information to the councillors in order for them to be able to make an informed decision. I am spending a long time trying to build confidence between me and the councillors, a lot of workshops are organised and documents are circulating but the other officials are more reluctant.*

Perhaps one of the reasons for the tension between officials and councillors (the intimacy of their day-to-day interactions) can become the basis for creating a team spirit. Part of the problem has to do with attitude and personality and some officials understand the need for both sides to get to know each other better. They have initiated opportunities for councillors and officials to meet in a less formal environment than the municipal offices or the council chamber In the Inner West local council, a social function is held "after each council meetings, for councillors, officials and the public to interact socially."[98] In the North local council, a soccer match was scheduled between the officials and the councillors for December 1996.[99]

To prove their good-will in establishing good relations with councillors, some officials are very careful not to (or not to appear to) infringe on the political duties of councillors. In the Inner West local council the CEO, unlike most of his colleagues, is very careful not to take

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[97] Telephonic interview with Teresa Dominik, Development Manager, Urban Strategy Department, metropolitan council, Durban, 18.05.1998.

[98] Inner West local council, Minutes of the Exco, 08.10.1996.

[99] North local council, Agenda of the Council, 28.11.1996. According to the CEO, the match did not take place because of the rain.

political decisions and knows how to use the political caucuses instead of complaining about politics in council. Among the council agendas used as sources for this study, those of the Inner West are notable for the care with which the recommendations of the CEO are worded. They often state that "no recommendation is made because it is a policy issue" or "the CEO proposes to refer the problem back to caucuses" The CEO also knows how to 'use' politicians when a metropolitan decision is not favourable to the local council. In September 1996, when the Inner West submissions for funding to the metro were not accepted, the CEO pushed the political caucuses to deal with the matter and liaise with their metropolitan counterparts.[100] Hattingh states himself that "the political caucuses are always at the centre of the decision-making process"[101] and specifies that it is a long-term strategy:

> *I have been building confidence with the council for a long time, from before the elections, and my strategy has been to promote interaction between the officials and the 38 community groups which during the elections, provided the candidates and the new councillors... Today, we do not have a 'gestapo type of organisation' and all councillors are free to approach every official but what I will not allow is that councillors act like managers.*[102]

Two things are notable here: the strategic approach to improving relations between councillors and officials; and the continuing assumption of power and responsibilities - "I will not allow..."

Some local councillors in the Durban area are openly trusting their officials and expressed their surprise that they have changed so quickly. The chairman of the North local council stated[103] that:

> *Local government was something else before, with officials running the show and presenting a report accepted by the councillors. Now they have to be accountable to councillors and this is new for officials. I am amazed at the speed of adaptation. This is transformation for me.*

At best, a real partnership is established between officials and councillors. Most of the officials acknowledge that they do not know anything about the newly amalgamated areas[104] but there are rare examples where both sides guide each other when it comes to taking a sensitive decision. For instance, the location of the police station in Umlazi benefited from the

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[100] Inner West local council, Agenda of the Exco, 21.01.1997.

[101] Interview with Hercules Hattingh, CEO of the Inner West local council, Pinetown, 06.06.1997.

[102] Ibid.

[103] Interview with cllr L. Naidoo, ANC chairman of the exco of the North local council and ward councillor, Umhlanga, 23.10.1997.

[104] In Ladysmith/Emnambithi, officials welcome the participation of the communities in the sub-committees, "especially when it comes to newly integrated areas, because we [the officials] do not know the situation there." Statement made by Jan Coetzee and several officials of the Ladysmith/Emnambithi municipality, 22.04.1997.

expertise of both officials and councillors. The deputy-constable of the Durban city police was advised by the mayor not to place it where he wanted because it was an IFP area and the ANC people would not come.[105]

In some of the TLCs, it seems clear that things are changing for the better. Responses like:

> *Now I understand that the problem with the roads is that the former municipality used cheap materials and it is difficult to repair them. Before, I thought that it was the head of the department that did not want to service black areas.*[106]

provide evidence of greater understanding of issues and constraints.

As the opportunities for interaction increase, councillors realise that officials have to deal with technical and financial constraints which prevent them from implementing certain directives of council. On the other hand, officials understand that councillors are eager to play a role in the definition of new policies and in their implementation and are going beyond the classical role of a 'city father'. The Mandeni CEO[107] states that the mayor is close to playing the role of an executive mayor "because he is very enthusiastic and I have to be careful not to cool down this enthusiasm".

Overall, however, these positive signs are still very rare and the general attitude of councillors which emerged from interviews is that they would appoint new ones if they could.

2 - Possible solutions and limits to them

2.1 - Better control through new appointments

The councillors' strategy to solve the problems of relationships with officials is, in general, to appoint new ones.

2.1.1 - The solution according to councillors

The appointment of new officials, 'closer' (politically and racially) to the council is no longer a taboo subject. For a long time, the common view was that officials should be totally independent from the council for their nomination. This was the Weberian idea that:

> *... in all circumstances, the designation of officials by means of an election modifies the rigidity of hierarchical subordination. In principle, an official who is elected has an autonomous position vis-à-vis his superiors, for he does not derive his position 'from above' but 'from below', or at least not from a superior authority of the official hierarchy*

[105] Interview with Mr Stewart McGregor, deputy-chief constable of the Durban City Police, 25.04.1997.
[106] Interview with cllr M. Mathe, Kokstad chairman of the exco, ANC, 21.02.1997.
[107] Interview with Mr Press, town clerk of Mandeni TLC, Mandeni, 14.07.1997.

but from the powerful party men... Moreover, if political parties are involved in any sort of selection of officials by election, they quite naturally tend to give decisive weight not to technical competence but to the services a follower renders to the party boss... Therefore popular election endangers... the expert qualification of the officials as well as the precise functioning of the bureaucratic mechanism, besides weakening the dependence of the officials upon the hierarchy.[108]

Not only is the political appointment of civil servants widely accepted nowadays, but the practice is seen as essential in South Africa, for the success of the 'transformation process': "We are in power in council but that does not mean anything if we cannot secure the support of the staff."[109] This is made all the easier by the repeal of the Town Clerks Profession Act (No. 75 of 1988).[110] Town councils can appoint whomever they wish to the position.[111] In the eyes of many councillors, the only way the council can have confidence in the officials is to appoint them. When councillors were asked for a solution to the problem of distrust between officials and councillors, this was, overwhelmingly the answer they gave:

Officials make it very difficult for us and the council... we need new people to be officials. There is no trust, both sides reject the proposals of the other.[112]

Outer West chairman of exco[113] speaking about the contentious appointment of four new directors in the sub-structure puts it bluntly:

Who has the control over the officials has the control over the local authority and we needed people with a vision at the top positions. We are in power in council but that does not mean anything if we cannot secure the support of the staff. The DP argued that the candidates did not have the experience, but this is not the only criterion you have to apply.

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[108] Weber M., Economy and Society, Vol. III, p.960.

[109] Interview with cllr Brian Nair, chairman of the exco of Outer West local council, ANC, Kloof, 04.06.1997.

[110] See note 2 of this chapter, for the past constraints imposed by the Act on the qualifications of town clerks.

[111] "This has opened the way for extremely unsuitable persons to be appointed, partly under the rubric of affirmative action, and partly because of political preferences or straightforward patronage. In several towns, municipal management has virtually collapsed because of this". See Atkinson D., Institutional Aspects of Development at Local Level: Problems and Prospects, Report submitted to Department of Economic Affairs, Northern Cape Government, 15 April 1997, p.17.

[112] Interview of a Pietermaritzburg/Msunduzi councillor.

[113] Interview with cllr Brian Nair, chairman of the exco of Outer West local council, ANC, Kloof, 04.06.1997.

There is actually a link between the appointment of staff by the new council and the decrease in tension between councillors and officials. In places where a new administration had to be put in place because there was none, with officials (even if white) being appointed by the new council, the relationship between councillors and officials is easier.[114] In the Outer West local council, the deputy-mayor linked the good relationship with the officials to the fact that they were appointed by the council: "the relationship with the officials is good because they are all new."[115] The CEO expressed the same views when he said[116] "the council had a problem with the past town clerk because he was associated with the old municipality. I am the new broom".

The process of new staff appointments is regarded as so important that in some local authorities, councillors are insisting on deciding on every single one of them. Whereas in the two Durban Central councils, senior officials deal, without the intervention of councillors, with the appointments of staff below the director level,[117] in other TLCs/TMSs (for example in Pietermaritzburg/Msunduzi and the Inner West local council),[118] councillors are controlling the allocation of all the posts. This contributes to the slowness of the administrative re-organisation[119] but councillors are reluctant to give up this role. In other TLCs, councillors would like to have this role but are not 'strong' enough to impose it on the administration.[120]

2.1.2 - New officials 'in tune' with new councillors

The new appointees are expected to work as a team with the new councillors because they have been appointed by the council after the 1996 elections and so owe their allegiance to the

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[114] However, as we are going to see, if the trend is to appoint new officials, some local authorities, including in Durban, have preferred keeping the experienced staff. In this case, they were re-appointed, which is a symbolic way of outlining where the political decision lies. See in this chapter, p.233.

[115] Interview with cllr M. M. Meyiwa, ANC PR councillor, deputy-mayor of the Outer West local council, Kloof, 09.06.1997.

[116] Interview with Gerald Strydom, CEO of Outer West local council, Kloof, 12.05.1997.

[117] Interview with cllr K. Harie, ANC metropolitan councillor, Durban, 13.03.1997.

[118] According to the DP caucus in the Inner West local council, one of the factors which contributes to the inefficiency of the municipality, along with the creation of a post of deputy-CEO, is the "decision to put councillors on every staff placement committee from brush cutter to CEO... this shows also a lack of trust in the officials who manage our city." (Budget speech by cllr Nick Clelland in respect of the 1997/1998 budget for the Inner West city council - 14 August 1997).

[119] This leads to some criticisms voiced mainly by white councillors stating that "councillors want to have a say on every appointment and they cannot cope with the work. It is the officials who should do this".

[120] The amount of power councillors can claim on internal appointments, depends on various variables such as the current by-laws, the strength of the unions, the interests of councillors in dealing with such issues. In Estcourt, the researcher found the councillors particularly ill-prepared to pressurise the administration. The council is divided between a strong independent group and a weak ANC-IFP coalition. Besides, the newly elected councillors are not really aware or interested in what is happening in council. The deputy-mayor seems to be the only one concerned by the matter of appointment of officials among the IFP and ANC councillors . He stated that "the town clerk has the delegated powers to appoint employees under the heads of department level. It should not be the case." Interview with cllr Chotoo, deputy-mayor of Estcourt TLC (ANC), Estcourt, 08.08.1996.

new councillors. But another supposed guarantee that the officials will follow the councillors' line is to appoint affirmative action candidates and/or previous politicians to the posts.

2.1.2.1 - The right 'colour'

> *Affirmative action is critical at local government level. It is at the local government level where the general public participates in local elections and development activities that decide* [citizens'] *fate. It is at the local level where the public comes into day-to-day direct contact with local authority personnel and councillors. It is at the local level where goods and services are delivered to the public by local authorities.*[121]

Affirmative action is seen by most of the local councillors as a very important - if not the main - indicator to measure the extent of the 'change' or 'transformation' of local government. When the councillors interviewed for this study were asked to what changes they associated 'transformation' of local government with, the most frequent answer referred to changes in the racial composition of the staff. Whether ANC or IFP, whether urban or rural, councillors saw affirmative action and a "change in attitude of officials"[122] as a prerequisite as well as a manifestation in itself of the changes undergone by their local authority. For the deputy-mayor of the North Central local council, "affirmative action is the most important component of the transformation of local government with the Masakhane campaign."[123]

This policy is not only important in order to change 'the face' of the administration and make it more racially representative of the demographic composition of the country. It is not only about giving jobs to people previously excluded from them. A change in the racial composition of the municipal employees is necessary because black or Indian officials are expected to be 'more developmental'. As they are coming from the newly integrated areas, they are supposed to be more sensitive than the white officials, to the needs of the black and Indian populations. Besides, as they were not moulded by the former white administration, where people were taught to follow the rules without asking any questions, new officials are expected to adopt more innovative approaches:

> *Councils are mainly a rubber-stamp for the decisions taken by officials... things will not change until the council implements a real affirmative action policy.*[124]

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[121] Chiviya E. M., 'Human resources management and affirmative action in Africa', in Reddy P. S. (ed.), Perspectives on Local Government Management and Development in Africa, Durban, Department of Public Administration, UDW, 1995, p.50.

[122] Interview with cllr L. Naidoo, ANC chairman of the executive committee of the North local council and ward councillor, Umhlanga, 23.10.1997.

[123] Interview with Cllr T. Bonhomme, deputy-mayor of the North Central local council and ANC ward councillor, Durban, 19.03.1997.

[124] Interview with cllr S. N. Gumede, ANC, South Central and metro councillor, Durban, 03.03.1997

These views of affirmative action are strongly promoted by the ANC and as strongly opposed by the other parties. The nomination of four directors (Financial Services, Community Health, Engineering and Corporate Services) in the Outer West local council has been one of the most contentious issues debated in that council. The director of Finance was appointed after the other parties (DP, URF, IFP, NP) walked out of council.[125] The DP objected to the nomination on the ground that the candidate was not qualified enough but ANC councillors used another logic according to which the candidate was totally suitable: "he is qualified because you have to judge a person not only on experience and academic qualification but also in terms of the vision and transformation."[126]

2.1.2.2 - The right political vision

Promoting 'the right vision' for local government transformation means in general adopting the new philosophy and attitude described above (accountability, transparency, developmental approach etc.). In some cases, the way to ensure that this vision will be implemented is to appoint former or present politicians to top administrative positions.

A number of councillors elected during the 1996 elections crossed the line and became officials in their local authorities. In Durban, ANC councillor Kishore Harie was the first to take this step. He left the metropolitan council in April 1997 to occupy the post of director of the Real Estate Department for the two Central councils. According to him:

> *Now that politicians are in power, they need support from the officials... A lot needs to be changed amongst the officials and I think I can introduce another vision of the work, based on co-operation between the departments and not on competition. We need a local strategy in Durban, not division between departments*[127].

He was ready to use his political relations in order to transform the administration:

> *I feel confident that I will have the support of the councillors and I am not afraid of the attitude of officials towards me because a lot of them are still in an acting situation and have yet to be appointed. I will be seen as a possible mediator by some but also as a controller because they know that I have a privileged relationship with the councillors.*[128]

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[125] Outer West local Council, Minutes of the Special Council, 26.031997.
[126] Outer West local Council, Minutes of the Special Council held in Committee, 08.04.1997.
[127] Interview with cllr K. Harie, ANC metropolitan councillor, Durban, 13.03.1997.
[128] Ibid.

Unfortunately, these confident predictions were not put to the test because he occupied his official post for only a few days.[129] Rob Haswell, the present deputy-town clerk of Pietermaritzburg/Msunduzi is another example of a politician entering the realm of officialdom. Before occupying this post, he had been a councillor in the town from 1984 to 1992, then crossing the floor from the DP to the ANC and becoming an MP:

> *I felt that I was needed at the local level so I came back to Pietermaritzburg and chaired the local government negotiating forum from February 1995. I was nominated mayor by the ANC with the support of the IFP, but the NP and DP were opposed to my appointment ... I felt that after a year, I had achieved my political role inside the council and that the next phase was the delivery. The real problem was the relationship between the council and the officials. I stepped out of the party and became town clerk to be the link between the council and the officials. Most of them are white, male and not sympathetic towards the ANC: they are not implementing.*[130]

Despite Haswell's claims that "councillors and officials are starting to have a common vision now", numerous interviews with councillors revealed that his appointment did not seem to solve any problems and even created new ones. After a strong involvement in politics, it is difficult to adopt a neutral attitude toward past opponent parties, especially when one of those parties (the DP) had been one's first political home. During the interview, Haswell spoke of his ANC membership in the past tense, but whether a card holder or not, he could not help saying "we" when he spoke about the party. The opposition in council considers his appointment as a disaster: "It is very unfortunate to have an acting town clerk that cannot be seen as impartial because of his political past."[131] The only IFP member in council states[132] that:

> *I was mayor at the time of his nomination and I saw him sign the document telling that he resigns all political affiliation for the time he is an official. I am the only one who reminds him when he starts being partisan that he has signed this paper.*

Besides the fact that the opposition parties in council do not trust him, it seems that he does not have the full backing of the ANC caucus in council. According to one councillor, the council hoped that his contacts at national level could help speed up delivery. But critics feel

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[129] He admitted stealing funds of R220,000 from a trust account to 'meet his commitments'. He resigned as Durban's Director of Real Estate after nine days in office. (The Mercury, 12.06.1997). He was then struck off the roll of attorneys (The Mercury, 04.08.1997).

[130] Interview with Rob Haswell, at the time of the interview acting town clerk of Pietermaritzburg/Msunduzi TLC, 19.11.1996.

[131] Interview with a DP Pietermaritzburg/Msunduzi councillor. The DP claims that the proper procedure for Haswell's nomination was not followed (because there was no interview at all of the other applicants) and the DP is still looking for legal ways to challenge the nomination.

[132] Interview with cllr Khwela, IFP councillor in Pietermaritzburg/Msunduzi (exco member) and rural councillor in the iNdlovu regional council, Pietermaritzburg, 29.01.1997.

that he has not succeeded in attracting enough money to Pietermaritzburg. The ANC having specifically created a post for him (deputy town clerk), it is obvious that he is watched closely and first of all by his political 'friends.'[133]

2.1.2.3 - In the IFP strongholds

The definition of an ideal official is slightly different for the IFP. The party has never put as much emphasis on affirmative action as the ANC.[134] All the IFP councillors interviewed toed the party line by stating that the most important criterion to fill a post is competence. Most of the regional councils' CEOs have served under the JSBs but several changes in staff composition were offered to the rural councils when:

- The uThungulu CEO retired, although he was not at all under the pressure of his exco which seemed to trust him;
- New regional councils were created and new staff had to fill the posts. The newly created uMzinyathi regional council is the only one to be headed by a black CEO (formerly employed as head of department in the Thukela JSB).

As in the ANC-dominated councils, new appointments sometimes offer the opportunity for rural councillors to be appointed as officials. The most surprising of these moves was the resignation of B. B. Biyela as the IFP mayor of Richards Bay and vice-chairman of the uThungulu regional council, to become the CEO of the regional council in September 1997. Another example is the iLembe's chief of Administration who is a former IFP exco member. Whatever qualities he may have, he will always be considered by the ANC caucus as an 'IFP agent':

> *The IFP is trying to consolidate its power and put IFP members in the administration. We still need to employ new people and the IFP is going to employ its own. But we will wait for 1999 and then we will change them.*[135]

Interviews with officials of regional councils left the clear impression that despite the IFP's official discourse, its councillors are as keen to employ black officials, irrespective of qualifications. The white regional councils' CEO (six out of seven in KwaZulu-Natal) do not enjoy the confidence of their excos which are adamant to see new faces in the regional

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[133] Haswell is not the only politician/official in the TLC. Thabane Zulu, who was elected in 1996 as a PR ANC councillor, left his seat to become "assistant city administrator". He stated that the problem between officials and councillors was a problem of "culture" and that he could "bridge the gap". (Informal interview during an Institute for International Relations' seminar, The 1997 Local Government Summit, Midrand, 18 and 19 June 1997).

[134] KwaZulu-Natal Premier Ben Ngubane stated that "the pressure on black appointments could have negative side effects: lowering the standards, emigration of skilled personnel. We must promote fairness and equality and we cannot discriminate along racial lines." Speech made during the State of Transformation in South Africa conference, organised by the Strategic Planning Institute, Durban, 28 and 29 April 1997

[135] Interview with Bantu "Selbi" Makhanya, ANC exco councillor of the iLembe regional council, chief of the ANC caucus, Durban, 10.09.1997

administration. The uThukela CEO had to call on his black counterpart in uMzinyathi for help in resisting his exco's decision to make what he thought to be an inappropriate appointment as Director of Finance:

> *I would not like to be in the CEO's shoes. Nearly all the exco members are black and they want the staff to be filled with blacks... But transformation is not only a question of colour.*[136]

The pattern of favouring black candidates may be common to ANC and IFP-dominated councils. But one thing separates them. IFP-dominated councils are happy to appoint apartheid-era bureaucrats in a way that their ANC-dominated counterparts would not. In the Ulundi TLC, where the local administration had to be built from scratch, all the local officials employed by the council are Afrikaners from Gauteng who arrived in Ulundi in April 1997. In the Zululand regional council, it is a former NP councillor from Vryheid, who sat in the JSB and the regional council,[137] who became CEO of the new structure. G. Rohrs was appointed CEO in October 1996[138] after having tried to be elected chairman and deputy-chairman of the structure.[139] Despite the lack of confidence that most of councillors feel for the new Zululand regional council CEO,[140] the most vehement opponents still prefer this solution to the appointment of a black official:

> *The solution would be to have a CEO who would understand our culture but it would be worse to have a black CEO because educated blacks are adopting western ideas.*[141]

As we can see in this last statement, appointing a black official does not solve all the problems of trust between administration and council. The IFP and the ANC also suspect affirmative action officials of having hidden political agendas. If an official does not openly belong to a party, he is nonetheless suspected of political bias. For example, the IFP tend to prefer 'old style' officials, especially in the rural areas,[142] because educated blacks there are

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[136] Informal interview with an anonymous regional council official.

[137] Zululand regional council, Iphupho Lomntwana, "A child's dream", Newsletter for the Zululand regional council, No. 1, April 1997, p.6.

[138] Zululand regional council, Minutes of the Council, 31.10.1996.

[139] Zululand regional council, Minutes of the Council, 21.08.1996.

[140] The fact that Rohrs, a former NP JSB and RC councillor, was appointed CEO by the council does not seem to have increased the control of the councillors over the decision-making process. According to an interviewee, he "has still a councillor's mind" and in many instances, the content of the minutes and agendas showed that the CEO was writing to service providers, on his own authority, without having received the authority of the exco.

[141] Interview with a Zululand regional councillor.

[142] It is less an issue in urban areas because there, the political affiliation of new officials is more obvious (they are more often former councillors). However, political mistrust exists, for example in the North local council, where the CEO finds it difficult not to get involved in politics: "when I give a lift to some ANC councillors, the other ones are thinking that I am taking side with the ANC." (Interview with Mr Joseph E. David, CEO of the North local Council, Umhlanga, 16.10.1997).

often assumed to be ANC members. The only black regional council CEO in KwaZulu-Natal,[143] stated that he has:

> *... easier relationship with black councillors because there is not a race problem but it is not so easy because the mistrust is still there. Both parties think that I help their opponents more than themselves.*

2.1.3 - Senior black appointments: a rare phenomenon

The number of new black appointments to senior official positions does not match the expectations of councillors. This is mainly because of the expertise of white officials and the lack of exposure of black aspirants to suitable work experience. The problem is shared by the biggest city in the province and the smallest TLCs.

At the end of 1996, the seven CEO posts in the Durban area were advertised internally and externally. This followed a recommendation to the industrial council by the change management committee, which is comprised of representatives of the six local councils and the metro council.[144] The decision had the backing of the South African Municipal Workers' Union (SAMWU) which asked that the positions be filled in terms of the councils' affirmative action policy.[145]

Things went rather smoothly for the existing Durban officials (except in the Outer West local council, see p.228). All the top officials who re-applied for their posts were kept, in contrast to what happened in Johannesburg. There, due to a strong affirmative action policy, top positions were filled by totally new people.[146] In December 1996, the two Durban Central excos unanimously recommended that O'Meara be re-appointed to the post of town clerk.[147] The nine executive directors are all white and they were retained without much opposition from the councillors.

Even if we have seen that affirmative action is a crucial component of the transformation process for councillors, they are also ready to acknowledge, especially in the big towns and

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[143] Interview with Mr Winston Mngomezulu, CEO for uMzinyathi regional council, Ladysmith, 16.05.1997.

[144] The Mercury, 10.10.1996. The metro's industrial council decided on 23 October 1996 that all CEO positions should be advertised and that all other existing employees would be dealt with in terms of an agreed staff placement policy. (The Mercury, 24.10.1996).

[145] Ibid. SAMWU first called for senior officials from the director to the town clerk level to reapply for their posts. (The Mercury, 19.09.1996).

[146] The Durban affirmative action policy statement approves a minimum target for the year 2 000 which is 10% higher than the Black Management Forum's:

- 30% of top management to come from former disadvantaged communities;
- 40% of senior management;
- 50% of middle management;
- 60% of technical staff;
- 80% of those with basic skills.

(The Mercury, 26.05.1997).

[147] The Mercury, 04.12.1996.

cities, the need for experienced officials. There is a sense that Durban is financially sound and employs good technicians and councillors seemed happy to symbolically re-affirmed their power through the re-appointment exercise. Between employing affirmative action top officials and the current qualified and experienced white officials, the two Central councils preferred the second solution. Councillors realised that they needed strong expertise and especially for such an important post as the one of CEO of the two most important sub-structures, were ready to make some compromise.[148] The cost of possible retirement packages was also considered as prohibitive. After the announcement that Durban's top posts would be re-advertised, the press made the point that "many skilled officials would consider taking pay packages which would cost local authorities in terms of the loss of experienced people and millions of rands in retrenchment or retirement pay outs."[149] MEC Miller also issued a warning, saying that the principle of voluntary severance packages and retirement schemes offered to public servants was the cause of government losing much-needed skills and expertise. He added that ministers should decide on retrenchments and that the current system had created a situation where staff whom the government had to "get rid of" were staying, while competent officials who were "readily employable" elsewhere were leaving.[150]

The alternative solution which is often adopted when top officials from the previous WLAs are kept, is the creation of posts of deputy which enable the training of affirmative action applicants. Local authorities who can afford it have added in their administrative organisation a deputy-CEO post[151] or set up a cadet system which enables in-house training for future staff.[152] But very few municipalities have a comprehensive human resources policy and very few can afford to pay two CEOs. The solution of 'getting rid of the top officials' is not realistic neither, because of the cost of the packages and the lack of black officials properly trained. In this context, it is not surprising that changes among the local government officials are slow to take place.

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[148] According to the deputy-mayor of the North Central local council, "officials are very good. They might have been wrong in the past but we should allow them the right to change. Now they are reliable, fair and honest, they accept the *status quo*. The CEO, O'Meara, was re-appointed unanimously because he was the best for the job." (Interview with Cllr T. Bonhomme, ANC, deputy-mayor North Central council, Durban, 19.03.1997).

[149] The Mercury, 19.09.1996.

[150] Business Day, 30.101996.

[151] The North local council (Interview with Mr Joseph E. David, CEO of the North local council, Umhlanga, 16.101997) and the two Durban Central councils adopted this option.

[152] In Ladysmith, "with the assistance of the councillors, we try to balance the experience of senior staff with new comers through a support system (cadet system for ten people just out of school)". (Interview with D. J. Vermeulen, chief executive of Ladysmith/Emnambithi TLC, Ladysmith, 20.08.1997) In Ulundi, the council "was looking for a retired professional town clerk to establish the administration in Ulundi. This allows for the post to be filled by a black person in the near future... Besides, we have an important programme of training for the staff which began 18 months ago. Every employee has the possibility to end up with a doctorate.... bursaries are offered by the council." (Interview with Mr C. F. A. Rademan, chief executive officer of the Ulundi TLC, 23.07.1997)

2.2 - Bad management of crucial aspects of the administrative transformation

If changing the 'face of the administration' is one step towards transforming the municipality, two important complementary aspects of transformation are vital but often disregarded. If councils want their officials to adopt new behaviours which favour development and democracy, it is not sufficient to change the people. Councils have to take into account the training needed by the officials, not only about the nature of the changes, but also about how to cope with them. Moreover, it is necessary for councillors to be in possession of indicators to assess this transformation process.

2.2.1 - The psychological factor

On the subject of changing role of officials, the ministry of Public Administration points out that:

> *Such a pronounced change in culture may not be universally welcomed, however, by management and staff. Training will therefore be required to explain the benefits of the new approach.*[153]

All too often however, the unavoidable problem of administrative inertia stands in the way of this goal. According to the exco chairperson of the Cape Town city council:

> *Local authorities are composed of many people who are not going to change their thinking without some intervention. We are dealing with people who have been in business for 30 or 40 years and they have a standard response to most questions or problems; they are not going to change without some training or change management workshops.*[154]

In reality, this resistance to change probably requires more than a few workshops to dislodge. It can be the consequence of the process of change itself and the stress inherent to it. Many public servants are worried about their future in the service, especially in the light of the planned rationalisation and affirmative action programmes. Due to a serious lack of internal communication about the changes affecting local authority staff - in terms of affirmative action but also of administrative organisation and integration of staff coming from different local authorities - most of them are in the dark and uncertain about their future. As an indication of this, the KwaMashu township manager wrote a letter to the North Central local council stating that his staff was "demoralised and would like to be briefed on the future and informed on issues like benefits and conditions of service."[155] In Durban Central, there is great uncertainty

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[153] Ministry for the Public Service, White Paper, p.49.
[154] Mfeketo N., 'Accountability first', in Graham P., Governing at Local Level, p.28.
[155] North Central local council, Agenda of the Exco, 21.01.1997.

amongst the departments which do not know whether they will fit in at metropolitan or local level.[156] Besides, the councils have to redefine the job descriptions:

> *It is a battlefield with the unions. Every one of the 13,000 employees wants to be upgraded and that is not a very productive process. It could also be a serious drain on the finances of the local councils, without anything really getting done on the ground.*[157]

All this uncertainty does not favour a strong involvement of the officials in the process of change.

2.2.2 - A lack of indicators to measure the changes

Another problematic aspect of transformation is the absence of any agreed yardstick by which councillors and officials alike can measure the changes. Expertise is codified knowledge, the directives it gives are much clearer than the vague preferences of the electorate or the vague injunctions of many laws. In dealing with experts, elected officials are terribly handicapped. They are handicapped by ignorance and by their low status when confronted with a consensus of expert opinion.

But the solution is not to transform councillors into experts in specific fields. This would take too much time and would only duplicate expertise. What councillors are lacking is not only some knowledge of the files and of the functioning of the local authority. They need indicators enabling them to make informed decisions and monitor them. This will avoid situations in which councillors are systematically targeting officials[158] when they are dissatisfied with the results of their policies. It is not acceptable that councillors have no means of monitoring the implementation of policies and do not know if the cause for failure lies in the way the bureaucracy is organised, the lack of funds, a lack of consultation, or even in sabotage.

The councillors' capacity to monitor the budget is crucial but at times they have the feeling that officials are lying to them. One of the principal problems identified by councillors attending an IRI workshop at the end of November 1996[159] was the lack of financial information and the fact that they believed officials to have some money available, but that they did not want to spend it in the newly integrated areas.[160] Councillors lack the basic

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[156] Interview with Teresa Dominik, Development Manager, Urban Strategy Department, metropolitan council, Durban, 15.05.1997. This problem is linked to that of the metropolitan model.

[157] Ibid.

[158] Several councillors stated during the interviews that "some officials are open and are working, some are making us believe that things are happening."

[159] Training organised by the International Republican Institute, Ladysmith, 23-24 November 1996. There were 28 participants coming from Estcourt, Weenen, Ladysmith, Bergville, Winterton, Colenso, Cathkin Park TLCs.

[160] Minister Moosa announced that he "will shortly promulgate regulations making it mandatory for every municipality to report on a monthly basis to their councillors on key Project Viability indicators." See Moosa V., 'The role of local government in South Africa: functions assigned to local government', Paper

knowledge[161] and indicators to evaluate the financial state of the town. They have little idea about the speed of delivery, the amount of income raised through rates and the results of the local Masakhane campaign. When asked about the significance of the council's expenditures and what are the policies which justify them, neither councillors nor officials can answer.[162] This proves that the budget is not the result of an in-depth reflection about what the council wants to do with the local authority but reproduces - with some changes - previous patterns of expenditure. One of the solutions could be for councillors to draw up a business plan, which means linking projects with the money available. The approval of the budget, as well as performance measurement would become much easier. This would also challenge the common practise of basing the budget on historical trends from the past. The council needs to adopt new policies and re-allocate funds.

Neither do many councillors have the capacity to evaluate whether the structure they are heading is 'developmental'.[163] The main obstacle to a new approach of development is the nature of the bureaucracies themselves. Their capacity to promote rationality and efficiency is more and more challenged. Some authors argue for example that bureaucrats do not care too much about efficiency and productivity. The interests of the bureaucracy itself tend to replace the basic function of promoting external goals. According to Niskanen[164] and Tullock,[165] bureaucratic behaviour is characterised by social inefficiency and administrative waste. Tullock considers that autonomy of bureaucracies is typical of modern bureaucratic behaviour and the outcome is inefficiency, irresponsibility and waste.

In South Africa, during all their years in office, officials have tended to build little 'fiefdoms' which did not promote inter-departmental co-operation. The decision-making process involves a lot of actors and officials tend to dominate it. Besides, as we have seen, their proposals are influenced by many other factors than rationality and technicalities. They can be the direct result of inter or intra-departmental conflicts which have nothing to do with policy but which are going to influence it.[166] In addition, strong hierarchy inside the departments tends to demotivate employees at the lower level and hinder intra-departmental co-operation. Now, officials are asked to join together and work on a totally new basis. This, especially in a atmosphere of political and racial distrust, creates resistance. It is the role of the councillors to

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delivered during the conference organised by the Fiscal and Financial Commission, Designing Local Government for South Africa: Structures, Functions and Fiscal Options, 23-25 July 1997, p.4.

[161] A member of the iNdlovu regional council exco asked in January 1997 the difference between a levy payer and a rate payer. (iNdlovu exco meeting, 28.01.1997).

[162] According to Alan York, consultant from Deloitte and Touche. Statement made during the training workshop organised by the IRI, Ladysmith, 23-24 November 1996.

[163] See chapter 9 for an in-depth explanation of the word.

[164] Niskanen W. A., Bureaucracy and Representative Government, Chicago, Aldine-Atherton, 1971.

[165] Tullock G., The Politics of Bureaucracy, Washington DC, Public Affairs Press, 1965.

[166] As pointed by Stoker, inter-departmental competition occurs because departments tend to consider themselves as coherent and independent units and try to increase their number of staff, budgets and responsibilities. The trends towards the professionalisation of local authority service providers reinforced it. Departments can manipulate community protests to support their case, See Stoker, The Politics of Local Government, pp.95-98.

see that the structures set up by the CEO to promote co-ordination between his departments and between the departments and other service providers are working effectively. But they are neither impartial nor well-informed.

Because they lack clear indicators by which to measure performance, councillors waste their limited time checking every move of the officials. Because of the level of mistrust and because they do not know how to evaluate officials' work otherwise, they try to double-check everything:

> *There is the problem of the reports: officials are misleading the councillors and we have to check every advice given: it takes a lot of time to check if officials do have a hidden agenda... they are enemies that have to show their good faith.*[167]

Councillors want to be present at every meeting to check on the officials' activities. Clearly, it is difficult for them to distinguish between a meeting where their presence is necessary and a technical meeting where officials meet together. Moreover, councillors are not able, in their deliberations, to go beyond the individual problems debated and state their positions on policy matters. For example, during the JSB times, the officials used to meet together to draw guidelines for the prioritisation of projects submitted to the JSB for funds. Thereafter, the Section 11 committees[168] looked at them. The new regional councillors were adamant that it would be they who would be in control of the prioritisation process. In the iNdlovu regional council, the councillors attended the first meeting of the technical committee (February 1997) concerning applications for development projects.[169] But if the presence of councillors at this meeting was justified, they did not use the opportunity to develop strategies awarding funds to the projects. Instead, they spent the meeting asking for technical clarification from officials. At the time, the political criteria defined by the iNdlovu exco in November 1996 were applied. They are:

- Priority to areas with greatest needs;
- No funding of welfare organisations;
- No funds for maintenance;
- No funds for NGOs;
- Certain limits for the schools;
- No funds for security purposes.

But many issues concerning the criteria used to grant money to a project remain unclear[170] and some political decisions have to be made in order to make the process of allocation of

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[167] Interview with a Pietermaritzburg/Msunduzi councillor.
[168] For a definition, see chapter 1, pp.33-34.
[169] The researcher was present during this meeting.
[170] During the prioritisation meeting, the researcher identified the following ones:

- How to spend the money, given the huge gap between the demands and the funds available. Should a project be granted the amount corresponding to the total cost in order to ensure that it would be

money transparent. The danger is that if the criteria (technical as well as political) are not clear, accusations of political bias in the allocation of the regional council's money could fuel potentially violent tensions in rural areas.

If councillors were able to give more detailed guidelines to officials on funding policies and other issues, they would not have to attend every single meeting.

2.3 - A lack of political leadership

Page notes[171] that the focal point of Weber's analysis of bureaucracy is political leadership. On the basis of the ideal typical characteristics of bureaucratic rule, Weber identifies the danger that government may become dominated by bureaucrats and a bureaucratic ethos. Without powerful political leadership, publicly articulated political preferences cannot shape state action and officials can, indeed must, govern virtually alone. Political leaders, that is those with political skills and public democratic legitimacy, offer the only real alternative to a bureaucratic system of government. Without leadership, government will carry on, but decisions will be subject to the internal logic of administrative organisations rather than to any publicly expressed values. 'Leaderless democracy' is a term used by Weber to describe systems in which political leadership fails to emerge.

In KwaZulu-Natal, the danger exists of a 'leaderless democracy' if the leadership qualities of councillors are not substantially developed.

In general, councillors are not politicians with the ability and experience to mobilise public support. They do not have the skill to achieve important objectives through the sacrifice of less important ones. Lacking confidence in their own authority and expertise, councillors sometimes fail to make constructive decisions.[172]

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completed? Or should the council only give a portion of it, making it possible to fund more projects but making it also difficult to complete the projects?

- What should be the policy about the geographical allocation of money? If many applications come from a sub-region, should it be granted more funds?
- What to do with the applications coming from TLCs? To what type of applicants give priority? How to split the money available between rural and urban areas? (this is a contentious issue seeing that urban areas are much more developed than rural ones but that the main resources of regional councils are drawn from the TLCs. See chapter 9).
- Should the exco decide to allocate specific budgets for each sub-regions?
- What should be the criteria justifying a refusal of the application? Can one say that if an application form does not mention the budget or the number of beneficiaries, the sub-regional committee will refuse it, given the unfamiliarity of most applicants with bureaucratic procedures?
- What kind of project should the RC fund? (A councillor complained about clinics being funded because it "should be a national competence").
- Can the council decide that there would be no funding for the projects if maintenance is not assured by the relevant provincial departments in case of roads, clinics and so on?

[171] Page E. C., 'Comparing bureaucracies', Lane J-E (ed.), Bureaucracy and Public Choice, p.232.

[172] This effect is all the more serious in South Africa where (as argued above) the bureaucracy does not enjoy the political legitimacy to implement new programs. This is especially the case given that the bureaucracy is widely perceived to be a centre of resistance to social change.

2.3.1 - Councillors' lack of understanding of issues and technical points

In South Africa, this problem related to councillors' lack of understanding of issues and technical points, is taking on important proportions. Writing about the pre-interim phase in the Johannesburg metropolitan area, Mabin states that there is a:

> *... tendency for the experienced officials and politicians of the old provincial and local authorities quietly to re-establish their predominance through knowledge and experience of how to run local government... the appointment of new transitional councils allowed them a great deal of space to shape what development is about as their new apprentices move slowly towards effective power.*[173]

Local councillors can be (mis)led to take a decision which conforms to the officials' proposal, because they lack understanding of the issue or of the mechanics of delivery. Some councillors do not fully grasp the activities of their local authorities and the different phases for the implementation of a project. The iNdlovu CEO complained that "when a project has been approved, councillors think that it can be immediately implemented not realising the importance of project preparation, such as technical feasibility studies."[174]

When the researcher asked 'technical questions' to the councillors, most of them were unable to give an answer. For example in Ladysmith, the deputy-mayor knew little about the new plans for the town. References to local economic development and integrated development plans, drew little response. What is worrying is not so much that the details of those plans are not known but that the objectives of those documents are not endorsed by councillors because they are not clear for them. They tend to consider any planning exercise as not relevant for them. This is particularly clear in regional councils where regional planning initiatives are being launched not by the regional councils but by the provincial Department of Local Government and Housing. In the uThukela regional council[175] it was MEC Miller's department which invited the regional council to set up a steering committee to guide the "planning process". This body assessed the tenders of the consultants and appointed them, but the terms of reference were drawn by provincial officials. The steering committee is composed by the regional council's CEO, members of the Local Government and Housing, Traditional Affairs and Economic Affairs Departments. It is only at the level of the plenary that exco councillors are present. In these circumstances, it seems clear that regional councillors are not at all involved in the decision-making process which is controlled by the officials present in the

[173] Mabin. A, 'Negotiating the shape of metropolitan government for post-apartheid cities in South Africa', Villes et Developpement: Groupe inter-universitaire, Montreal, Cahier 1-96, 1996, p.16.
[174] Data Research Africa-Development, Case Study: iNdlovu Regional Council.
[175] uThukela regional council, Minutes of the Exco, 29.11.1996.

steering committee. This pattern is common to most of the planning exercises which have been initiated at local government level since the elections.

However, it would be wrong to accuse the provincial government of taking up the initiative and of steering the process. When planning issues are decided, or when a study about integrated or economic development is suggested, councillors do not seem to feel concerned by the objectives of the exercises, which remain for them very technocratic. It is only when the results of the exercise are known that they realise that they - in a certain measure - have allowed themselves to be by-passed and that they react. During the Midlands Development Summit[176] which presented the development strategy for the iNdlovu regional council area, regional councillors complained about the:

> *... technocratic language of the document, which was in any case not translated in Zulu... the concerns of councillors are not about what people are talking here, but small issues at grass roots level.*[177]

This is a direct consequence of the lack of involvement of councillors into the planning process.

One of the consequences of this lack of understanding is that most of the time, the CEO is the only one in the council chamber who is in full possession of the details about a subject being debated. In Ladysmith, the CEO[178] finds it very difficult:

> *.. not to be dragged into the political arena, because I have to answer all the questions from councillors. Exco councillors did not have the opportunity, unless they attended the sub-committees, to know the subject. The exco as a body knows everything but not all the eight exco councillors knows everything. They are ganging up against me but when it is political and they ask my opinion, I leave the council chamber. I give the factual input and just leave them.*

This lack of understanding undermines councillors in front of their constituencies and officials. Some officials are annoyed by the lack of knowledge or understanding of councillors and expect them to study the matter before coming to them. According to an Estcourt councillor, this explains the scornful attitude of some of the officials:

> *Officials are afraid that blacks run the town. For some of them it is out of racialism. For some it is because councillors do not study their subject enough before coming to them and the discussion cannot be on equal terms. If you know your subject, officials are friendly. Otherwise they mention the ordinance without any explanation.*[179]

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[176] Midlands Economical Development Summit, Pietermaritzburg, 18.03.1997.
[177] Statement of one regional councillor made in private.
[178] Interview with D. J. Vermeulen, chief executive of Ladysmith/Emnambithi TLC, Ladysmith, 20.08.1997.
[179] Interview with an Estcourt councillor.

2.3.2 - Councillors dominated by officials

Some officials acknowledged off the record that they would be better off without a council and that they do not see the necessity of having politicians:

> *... spending a maximum of one hour per month for municipal affairs. It would be better if there were only officials and once a month, they would meet with the public to hear what they want.*[180]

Councillors can be dominated by officials because they are less educated and have less access to information, especially in small towns.[181] Councillors are rarely initiators of change because they do not know what should be changed. They tend to accuse the officials of not co-operating but they do not realise that they have the opportunity to 'rock the boat'. They are not able to identify when their presence is needed and when it is not. For example, they tend to leave the officials alone when it comes to facing the citizens. In the Inner West local council, where meetings between officials and communities have been taking place since the pre-interim phase, the councillors themselves have withdrawn from the process:

> *During the period of nominated council, communication with the communities continued but with very little councillor involvement. This has resulted in a situation where officials were requested to take on semi-political roles. This is an unacceptable situation.*[182]

It is they who are in control and in theory, they are able to take controversial decisions in order to transform their municipality. Most of the time councillors have not even identified stumbling-blocks - such as decisions or by laws adopted by the former councils - which are preventing them from controlling the decision making process. For example, how many Inner West councillors know that:

> *During the pre-interim phase, the development projects did not stop because delegated powers in terms of development issues were granted to officials in 1991. These powers are still in place but we do not use them very often because we are working with the councillors.*[183]

If for the moment, the relationship between officials and councillors in Inner West seems good, there is always the possibility that these delegated powers could be used legally without the councillors' knowledge. In case of a strong disagreement on developmental options between officials and councillors, the former would be legally allowed to implement their choice.

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[180] Interview with an official in a small town.

[181] The situation is similar to the one described by Samoff in Tanzania where "major proposals are made by officials... the council is limited to legitimising proposals made by its officers and perhaps exercising a vague and rarely used veto." See Samoff, Tanzania: Local Politics, p.91.

[182] Letter from the CEO about community participation, in Inner West local council, Agenda of the Exco, 22.07.1996. Its author urges councillors to take up and officials to withdraw from this role.

[183] Interview with Hercules Hattingh, CEO of the Inner West local council, Pinetown, 06.06.1997.

One of the main grievances of councillors is the way officials seem to control the choice of contractors and consultants. In the Zululand regional council, "nothing has really changed and the regional council is still used by white consultants to get money. They are the ones who benefit more."[184] In Outer West, local councillors complain that "officials still give the job 'to the old guard' when it comes to quotation and tender." The council took one year to agree to review the policy inherited from the old council and to make it more user-friendly to small and black businesses."[185] When iLembe regional councillors questioned the appointments of consultants by the officials, they faced a classical bureaucratic answer which they did not know how to counter; the CEO responded that the exco may "also [sic] appoint consultants... The Technical Services Department has a data base and exco members are asked to submit more names."[186] In the uThungulu regional council, when a councillor raised a motion during an exco meeting stating[187] that "the tendering system as presently structured does not involve the elected councillors during the initial stages of the tendering and is not a transparent system" and added that "councillors are not involved with the prioritisation of the RDP projects", the officials simply referred the matter back to the IFP caucus [sic] for further consideration.[188] This was done in a manner to avoid further contestation.

What the councillors should have done, to fulfil their role as political head, rather than providing contractors' names (which is not their role), was to vote on specific criteria which would make it easier for a black entrepreneur to win tenders. They should guide the officials instead of being drawn into technicalities or being manipulated.

This phenomenon is not only observable in the rural areas but also in Durban. The problems experienced in 1997 by the city council over the financing of the World Veterans' Championship offer classic examples of councillors' lack of capacity to guide the officials.[189] The catastrophic management of this sporting event, leaving a R5 million debt which the metropolitan council was asked to cover,[190] reveals the lack of political leadership of the councillors. The metro exco complained[191] about being asked at the last minute to fund sports and cultural events which cannot find sufficient sponsorship. Councillor Krog questioned the capacity to evaluate what events were a priority and what were not. But the metropolitan council did nothing about the lack of specific guidelines on whether to sponsor a sporting event or not.[192]

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[184] Anonymous interview in Ulundi.
[185] Interview with cllr Brian Nair, chairman of the exco of Outer West local council, ANC, Kloof, 04.06.1997.
[186] iLembe regional council, Minutes of the Exco, 17-18.04.1997.
[187] uThungulu regional council, Minutes of the Exco, 25.03.1997.
[188] uThungulu regional council, Minutes of the Exco, 25.04.1997.
[189] It is however difficult to put the blame exclusively on the councillors. Officials seemed to have been unable to evaluate the exact cost of the World Veterans' Championship.
[190] The Mercury, 16.09.1997.
[191] The Mercury, 19.08.1997.
[192] The metropolitan council's inability to draw up proper policies concerns also more 'important issues'. In October 1997, the Informal Trade Department director of the Durban metro said that officials do not

This is not to say that none of the councillors are beginning to initiate policies of transformation in their local authorities. In iNdlovu regional council, councillors decided to take the problem of consultants very seriously. All consultants should be approved by the exco and the sub-regional committees, before they are engaged. A special committee has been drawn up to check the consultants' activities.[193] A comprehensive policy on the issue of contractors was proposed a few months later.[194] It was suggested that the sub-regions be responsible for their appointments or if they are proved not competent to make these choices, this function would be re-assumed by the exco. It was also proposed that an equitable distribution of work among all contractors be applied "taking into consideration the bias against black contractors... the need for affirmative action and the use of emerging contractors."

The Durban metropolitan council is taking the lead in the identification of the stumbling blocks which prevent investment in the area. The council discussed plans to launch a R1 million independent commission (the "Best Practices City Commission") expected to be headed by two 'highly respected' members of the business community, representing the established and emerging business sectors. The scope of the report will range from investigating legislation governing development applications to conducting a performance evaluation of the bureaucracy, and comparing this performance against other South African and foreign cities.[195]

CONCLUSION

Such positive signs are rare however and Gordhan's remarks made in June 1996 are still true today:

> *The bureaucracy runs local government irrespective of elected councillors. It is the bureaucracy which actually shapes much of the direction that local government takes... If we are talking about local choice and local control, it is the elected representatives who are supposed to be exercising that control... Most town executives live in the old South Africa, so how do you say you have developmental local government in the constitution, in legislation, when the people who are supposed to be directing developmental policies on the ground are living in another world... Right now, it is an ordinary town planner who must decide whether to restructure the apartheid city or not.*[196]

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have a clear policy or a legal framework to prevent informal traders in the CBD. (The Mercury, 21.10.1997).

[193] iNdlovu sub-regional committee one's prioritisation meeting, Wartburg, 05.03.1997. The researcher was present.

[194] See iNdlovu regional council, Agenda of the Special Exco, 09.06.1997.

[195] The Mercury, 14.04.1998.

[196] Gordhan P., 'Developmental role of local government', INLOGOV Seminar Series 2/1996, June 1996, pp.3-4.

This is not to say that bureaucracy does not have a great role to play in the transformation of local government. It is necessary that it plays its role of control of the administrative process, in particular to ensure that resources are allocated on a non-partisan basis. What this chapter has tried to outline, is the councillors' vision of bureaucracy. Whether it is true that officials are dominating councillors or have their own "hidden agendas" could not be tested since it would have taken a in-depth study in each of the local authorities studied. The really important question is, taken councillors' impressions, what can be done to create a new balance between the council and its administration. Both have to work complementarily and not against each other.

The feelings expressed by most of the KwaZulu-Natal councillors on this issue are frustration, anger and discouragement because they know that they are not really in control of their own administration.

Councillors feel trapped by the superiority of the officials' legal and technical discourse.[197] Officials "are throwing us the ordinance and other legislation and we are not competent to discuss it."[198] Agendas "are written by officials who use incomprehensible technical terms."[199] Councillors realise that they are totally depend on officials for technical information and support:

> *The problem is that the councillors lack the skills and are indebted to the officials for knowledge. In the ANC, we know how to fight for a liberation but we are not technicians.*[200]

The magic solution is not to appoint new officials because it is not obvious that they will be trusted because they are Black or belonged to a political party. Neither is it a solution for councillors to try to become technicians themselves instead of working through their political role. Because local councillors do not know how to deal with their officials (out of mistrust, inferiority complex, fear..), and because they are unaccustomed to the arcane lore of local government, they do not know how to translate slogans into actions. This leads to a total incapacity to take any decisions or in councillors interfering with the administrative work of the officials. In both cases, the result is inefficiency and conflict and the responsibility lies in the lack of leadership of councillors.

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[197] Gotz summarises the situation by explaining that the councillors' space for manoeuvre is limited because of "restrictive council standing orders, over-committed operating budgets which leave little money for capital expenditure on new projects, responsibility and command which run through the offices of old officials, Planning Departments which operate within the parameters of old schools of thinking". Gotz G., 'Local elections 1995', Indicator SA, p.27.

[198] Intervention of a Pietermaritzburg/Msunduzi councillor during the Institute for International Relations' seminar, The 1997 Local Government Summit,.

[199] Interview with cllr Lydia Johnson, mayor of the North Central local council, ANC PR councillor, Durban, 08.05.1997.

[200] Interview with a Pietermaritzburg/Msunduzi councillor.

Part III

A "transformation" YES, but what kind of transformation ?

Chapter 7
Building a local citizenry through local government?

The modernizing society is often a "plural society" encompassing many religious, racial, ethnic, and linguistic groupings... The problem of integrating primordial social forces into a single national political community becomes more and more difficult.[1]

Because there is such a disparity in the provision of public services to the different South African communities, the central issue for local government in the country is service delivery. Local government in general and each council in particular, will be judged according to this criterion. But the necessary condition of delivery is that councillors and voters alike realise the interdependence of interest which exists between the communities living in the same local authority. It is crucial that citizens accept the legitimacy of their common political and administrative entity. Different worlds are meeting in the council chamber of rural and urban local governments. One of the roles of local government is to create a sense of common belonging amongst the local communities. In South African towns, the task is to give to those citizens, the feeling that they belong to a new, legitimate, common, political entity. In rural areas, the presence of the state has never really been felt before by the majority of the community, except when a line ministry decides to build a school or maintain a stretch of road. Local government has the daunting task there, to make the presence of the government felt on the ground.

1 - The lack of a common sense of belonging

The promotion of citizenship as a new function of local government is rarely mentioned in policy documents. In general, only a few lines are dedicated to this issue, whereas development and democracy are featuring prominently. It was at a very early stage of the white paper process that the term of 'national integration' appeared,[2] but then it is not at all present in the official successive drafts (Discussion Document, Green Paper and White Paper). During the launching of the South African local government association (SALGA), it was an official, not a politician who declared that:

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[1] Huntington S. P., Political Order in Changing Societies, New Haven and London, Yale University Press, 1968, p.10.

[2] "The introduction [of the White Paper on Local Government] should state... the need for effective, democratic local government as a vehicle for development and national integration." Meeting of Portfolio Committee on Constitutional Development, Discussion Document: White Paper on Local Government, unpublished, 3 September 1996, p.2.

> *... nation building is an important aspect of development especially in South Africa. To be effective, nation building must start at local level... Local government has the major responsibility of rebuilding the nation at grassroots level.*[3]

This goal of local government is in permanent tension with the day-to-day reality of South Africa. Towns (especially the small ones) remain "mini-citadels of apartheid"[4] because in their urban form, they still embody the planning ethos of separate development.

1.1 - A difficult co-existence in urban areas

The fragmentation and division of the urban fabric is the source of legitimacy problems for the new councillors and the structure they head. "Homogeneous" towns like Ulundi, where the black community forms 99% of the population and where the "black people always governed themselves",[5] are the exception rather than the rule. Mandeni TLC is an extreme example of an apartheid town. McCarthy et al describe the difficulty for Mandeni citizens to come to term with the new TLC area. Mandeni suffers from:

> *... a fragmentation of the economy* [large industrial firms and few linkages with the rural economy, weak commerce and services]... *social fragmentation* [divisions between races, loss of middle class whites]... *spatial fragmentation,... institutional fragmentation,... political fragmentation,... environmental degradation.*[6]

In urban areas, three sources of tension were identified to illustrate the difficult co-existence of the different communities and the challenges posed to an integrated and unified local authority.

1.1.1- Specific problems of the metropolitan areas: white towns as 'laagers': Durban as a case study

[3] Andrew Boraine, Director General, Ministry of Constitutional Development and Provincial Affairs, during the launching conference of the South African Local Government Association, Durban, 21-23 November 1996.

[4] Centre for Development and Enterprise, South Africa's Small Towns, New Strategies for Growth and Development, Johannesburg, CDE Research Policy in the Making series, No. 2, May 1996, p.42.

[5] Interview with Mr Nel, town engineer, Ulundi, 21.07.1997.

[6] McCarthy J., Hindson D., Peart R., A Local Economic Strategy for Sustainable Development in the Mandeni TLC Area, Durban, University of Durban Westville, ISER, 1997, p.21.

Young[7] outlines the specificity of metropolitan areas in terms of identity. Metropolis are conglomerations of distinct communities which are bound together by their dependence upon the labour market and commercial opportunities afforded by a central city:

> *The essence of the metropolis may... be expressed in simply dualistic terms, as a tension between unity in the economic sphere and diversity in the social sphere... We may regard the essential dualism of metropolitan life as a tension between the needs for area-wide administration of common services and the forces for identity-maintaining suburban separatism.*[8]

The majority of the TLCs in KwaZulu-Natal are the product of the amalgamation of a white local authority with black and/or Indian area(s). In such towns, two, three or at the most four entities merged. The demarcation process did not allow for different white local authorities to be amalgamated into single TLCs because of the opposition of the white communities which were determined to retain their identity. In the metropolitan areas by contrast, mergers involved many more units and white local authorities found themselves being amalgamated with black, Indian but also other white areas, to form a new municipal entity (sub-structure). A specific kind of contestation resulted.

Humphries and Shubane foresaw at the beginning of the local government transitional process that:

> *The metro option involves not only the re-amalgamation of white towns and neighbouring black townships, which were single administrative entities before the introduction of Administration Boards, but also the combining of hitherto separate (white) local authorities within the metropolitan area. In some senses this latter attempt to reduce urban institutional fragmentation will prove more difficult than the first issue. This is so since there is no history of common municipal citizenship between adjoining white towns.*[9]

This phenomenon, mixture of competition between white areas and parochialism, is dominant in small wealthy local authorities like Westville and Pinetown. Khan reports that:

> *The Westville municipality... commissioned, during the metropolitan boundary demarcation negotiations, a study to examine the feasibility of*

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[7] Young K., 'Metropology reinvented. On the political integration of metropolitan areas', in Young K. (ed.), Essays on the Study of Urban Politics, London, MacMillan, 1975, pp. 133-157.
[8] Ibid., p.135.
[9] Humphries R., Shubane K., 'Will the tail wag the dog?', in Indicator South Africa, Vol. 9 (4), Spring 1992, p.89.

'going it alone', and had sought advice whether the 'legal situation allows Westville ...retaining its identity'.[10]

To justify this move, the then Westville mayor Nicky Armstrong stated that she wanted to retain "the special ambience we have here."[11] This feeling is still prevalent in 1998. Councillor Clelland in the Inner West local council of Durban reports that:

> *Before in Westville* [one of the components of the new local council], *the council was close to the population, because each entity had a municipal office. Now the council and the administration sit in Pinetown. People in Westville feel let down and they also look down on Pinetown.*[12]

However, the most common pattern of opposition when it comes to amalgamation of different entities is 'former white areas vs. the newly integrated ones'.

1.1.2 - The opposition between the 'advantaged' and 'disadvantaged' areas

The biggest problem after amalgamation is for the white suburbs to accept that they live in the same administrative entity as blacks, Indians and 'coloureds' and that it is most unlikely that their needs will be on the top of the new council's agenda. In the Inner West local council:

> *People do not want to look at the broader picture. They still have not accepted:*
>
> - *The new boundaries of the local council;*
> - *That we talk about the Inner West now and not only Westville;*
> - *That the area needs development, capital projects;*
> - *And that we need to increase the rates.*
>
> *We are part of a new entity. People only see that the rates have increased up to 80%, that there is no one anymore to help them in the administration, that the verges are not cut. They see less service for more money.*[13]

The different communities are still divided, even if they live in the same local authority. Two examples can illustrate this point. First of all, the preoccupations, standards and *modus operandi* of a first world country are prevalent in the white suburbs. The incongruity of white priorities compared to the situation in black areas can be quite marked. Councillor Beningfield stated that:

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[10] Khan F., Metropolitan Case Study as Input to Local Government Green Paper. The Case of Durban, Durban, unpublished, 1997, p.8.
[11] Daily News, 27.10.1994.
[12] Interview with cllr Nick Clelland, DP member of the exco of the Inner West council and metropolitan councillor, Westville, 10.09.1997.
[13] Ibid.

> *In Mandini* [white part of the Mandeni TLC] *there is a lot of apathy. There is no interest in council business except when it comes to rate issues or dog licensing. In the former white area, there is 95% payment for dogs and in Sundumbili 0%. People are pressurising us to know why the newly integrated areas do not pay for their dogs. But it is an unenforceable law there and we are trying to find another system of keeping control over the dogs.*[14]

The issue of dog licensing has also mobilised the Durban community. The Change Management Committee of the Durban metro and the six local councils took the radical decision to repeal the dog licensing by-law.[15] They recognised the fact that it could not practically be applied to the newly integrated areas. The cost of implementing it exceeded the revenues raised (with a shortfall of R750.000 per year) in the Central councils.[16] This issue illustrates the fact that the differences in priority, regulations, ways of living, capacity of control and enforcement of the local laws in black and white areas are so significant that some rules simply cannot be applied across the local authority.

A more important topic, which polarises the different amalgamated entities, is the voting of the municipal budget. Nobody contests the necessity to direct the capital expenditure of the local authority to the black areas because of the lack of service provision and facilities. The problem which is posed is rather to determine to what extent should ratepayers in formerly white areas cross-subsidise the redress of this discrepancy, especially in the light of non-payment of services in black areas.

This study argues that this question is directly linked to the one of acceptance of a new common administrative entity. It is rather easy for a person to feel "South African", to recognise the legitimacy of the national government and cling to some symbols such as President Mandela, the new flag and national rugby or football teams. But when "feeling an inhabitant of the Pietermaritzburg/Msunduzi TLC" means paying for the services the community in the TLC at large receive, this new identity is put to a test. Local government is the sphere of government in which the imbalance between rights - rights of delivery which are not translated into projects fast enough - and financial obligations is the most directly felt. As a result, the local level of government provides a good framework to measure the progress of a common citizenship and of the legitimacy of new structures of government.

The issue of payment can be a test which measures the degree of acceptance of the "New South African" institutions. Local government enjoys a central position when it comes to evaluating this support. It is at this level that the majority of the population assumes

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[14] Interview with cllr Beningfield, chairman of the exco of the Mandeni TLC, Independent, Mandeni, 14.07.1997.

[15] Berea Mail, 17.04.1998. The Berea Mail is a free local newspaper received by the residents of the North and South Central local councils.

[16] Ibid.

obligations to fund government. In theory, all the urban property owners are expected now to pay for electricity, water, and the services provided by their local authority. Moreover, they are expected to pay for services which are provided in areas where they will never go or for facilities such as parks, libraries, beaches, museums etc. they will never use. The construction of a swimming-pool in Phoenix has little impact on the lives of KwaMashu residents but they still are supposed to participate together to the general well-being of the inhabitants of the entire North Central sub-structure. In this context, it is undeniably important that the population recognises the legitimacy of the new council and a shared responsibility for its failures and successes.

On the one hand, there is a ratepayers' opposition to rate increases.[17] The threats of boycott are based on the ground that white residents do not want to cross-subsidise poorer areas. Residents in white areas are also complaining about the service charges, arguing that they are being discriminated against compared to the black suburbs. Both complaints illustrate the refusal to bear the financial consequences of the amalgamation

The Walker case against the Pretoria city council received much publicity in KwaZulu-Natal. Mr Walker sued the city council for unfair discrimination concerning service charges. He argued that residents in the Pretoria black areas were paying a flat rate for their services whereas they were metered. The Pretoria Supreme Court condemned the city council and immediate reactions could be heard from supporters and opponents of this judgement. The United Ratepayers Federation regarded the judgement as a "landmark decision" and its chairman, Brendan Willmer, stated that he intended to use the court decision against the Durban council and its policy of cross-subsidisation.[18] On the other hand this gave the opportunity to Joe Latakgomo in the Daily News, to accuse the Court of slowing the transformation process:

> *So residents can take the Pretoria City council to court for discriminating against them by not providing tarred roads etc... This white ratepayer* [Mr Walker] *does not understand the state of black townships... Could this be the beginning of the process that brings down democracy? Could boycotters have genuine reasons to challenge the authorities or are they doing so to undermine the democratic process? That "coloureds" believe that they are being targeted because they are coloured could lead to further undermining of nation-building efforts. Crisis looms.*[19]

[17] See chapter 5, pp.195-198.
[18] Sunday Tribune, 09.02.1997.
[19] Daily News, 11.02.1997.

At the same moment in KwaZulu-Natal, the rates and services charges crisis was deepening in Ladysmith and Estcourt with white and Indian residents refusing to pay rates and insisting on a flat rates charge.[20]

On the other hand, there is widespread non payment by citizens in the newly amalgamated areas. According to a senior Durban official, the reason for non-payment mirrors the threat of whites to boycott their payments. Neither group is yet ready to take into account the 'broader picture', to accept that they belong to the same local authority:

> *People in R293 townships do not accept the idea of taxation being directed to things that they might not use. They consider delivery of services for themselves and not for all the sub-structures. People cannot identify what the rates are for because they are for the good of the whole area. We still need a lot of education and communication about it.*[21]

The tension between the different communities on the ground influences the councillors' attitudes in the council chamber. Black and Indian councillors are adopting an increasingly aggressive attitude towards white ratepayers, seen as 'opponents to the transformation process'. The ideal of a local authority where communities are working together for a better common future is abandoned in favour of a more confrontational approach. Community pressure is reflected in populist slogans. In Ladysmith/Emnambithi for example, councillors stated during a council meeting[22] that there was not enough emphasis on previously disadvantaged areas in the rebates of rates and that "it is pay-back time, the advantaged communities must pay." On the other hand, in extreme cases, councillors are considering the idea of creating a totally white local authority, separated from the black areas. Councillor Webber from the Outer West local council states that:

> *The* [Outer West] *local council is not viable. Miller created it because he believed that it was the only place where the IFP could win seats in the metro. The Outer West was created out of political expediency. In the future, it will have to evolve. One solution could be to combine with the Inner West local council or change the delimitation of the area. There is support for the idea of the old mistbelt* [the affluent areas like Kloof, Hillcrest, Botha's Hill] *amalgamating and forming one local authority. The black areas would have their own local authority subsidised by the government*.[23]

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[20] Sunday Tribune, 09.02.1997.
[21] Interview with Mr Gibson, Office of the City Treasurer, City of Durban, 24.04.1997.
[22] Ladysmith transitional local council, Minutes of the Council, 31.07.1996.
[23] Interview with cllr V. I. Webber, DP ward councillor, deputy-chairman of the exco of the Outer West local council, Durban, 10.06.1997.

Opposition between councillors representing the former white and black part of the new TLC is so deep that it is sometimes stronger than political antagonism. For instance, although the ANC and the IFP fought bitterly in Wembezi (Estcourt's black township), and transformed the place into a battle field where the territory belonging to each party is well delimited, the Wembezi councillors, across political line, caucused together in the months following the elections.[24] This proves that the representatives of the two camps who used to fight against one another felt enough in common to join forces against the independent councillors in [the white] town. This was also clear when decisions had to be taken on steps to collect arrears. The lines of conflict were clearly drawn in council: "Estcourt [white area] and Wembezi councillors opposed each other."[25] The specific context in Estcourt (a hung council[26] and the knowledge and expertise of the white and Indian councillors[27] opposed to the inexperience of the Wembezi councillors) explain this phenomenon. The deputy-mayor made the following surprising statement in the context of the past violence in Wembezi but which can be easily explained by what we have written above: "when it comes to development in Wembezi, the IFP and the ANC stand together against the rest... When the IFP is weak, the ANC is not strong."[28]

1.1.3 - Equality of treatment between Indian and black areas

For the Indian voters and councillors, the legitimacy of new local authorities has been partly measured by the question of whether Indian and black areas have been equally treated. One of their insistent demands was the cancellation of the Indian and coloured arrears' of debt. This issue posed problems because to determine if Indian residents should benefit from this measure, amounted to deciding on whether or not the discrimination suffered by the Indian population was equal to the one inflicted to black townships. With the "Agreement on Finance, Services and Service Rendering", signed on 20 January 1994, transitional councils were assured that they would not inherit the debts accumulated by the BLAs. However, there was

[24] The IFP whip in the council specifies that the common caucuses lasted only two or three months because the councillors were not really interested. (Interview with cllr Sipho Zulu, IFP ward councillor of Estcourt TLC, Estcourt, 0708.1997). This lack of party discipline was confirmed by a member of the local peace committee who added that the same fate was reserved to the meetings convened by a local IFP MPP (Mrs Ford). They were attended by the ANC and IFP councillors - all from Wembezi - and aimed at "teaching the councillors their job." (Interview with Angela Andre, Estcourt Peace committee, Estcourt, 08.08.1997).

[25] Interview with cllr D. M. Vahed, Alliance of Independent, elected on PR, former mayor of Estcourt, Estcourt, 07.08.1997.

[26] On a total of 19 seats in council, 10 seats are occupied by the IFP and the ANC and 9 by the independent/ratepayers/NP alliance.

[27] The deputy-mayor presents the members of the "alliance of independents" as "strong, composed of mature men with experience. They vote together." Interview with cllr Chotoo, deputy-mayor of Estcourt TLC (ANC), Estcourt, 08.08.1996.

[28] Ibid.

some confusion on the questions of the arrears in Indian and coloured areas.[29] The decision was left to each pre-interim and interim transitional council.

The granting of rates rebate was a contentious matter for the pre-interim Durban council. The KwaZulu-Natal Rates forum which represented former Indian and coloured areas in the city, embarked on a rates boycott early in 1995 to demand a rates rebate. Former Indian areas were considered to be victims of the past discriminatory policies because these measures, by forcing the Indian population to live in designated areas, artificially raised the price of land. This issue divided the pre-interim council. Before the local elections and after months of negotiations, the KwaZulu-Natal Rates forum vowed to intensify the boycott against the Durban Central council after the city's executive committee failed to agree on the amount of a rate rebate. A forum spokesman blamed the breakdown in talks on an "Inkatha Freedom Party/NP/DP alliance in exco."[30] He claimed that the ANC supported the forum's demands but that the three other parties scuttled the talks because they feared the ANC would win support through a generous rebate, ahead of the forthcoming elections.[31] The pre-interim Durban Central council (on 20 May 1996) finally proposed to grant a 50% rebate[32] and this was confirmed by the new North Central and South Central councils.[33] The Inner West local council also resolved[34] to grant additional rebates for the former Indian areas of Dassenhoek (Nagina), Westville, Motala Heights and Reservoir Hills. In the Pietermaritzburg/Msunduzi TLC, the council took seven days to pass the 1996/1997 budget and one of the unresolved problems was the rate rebate for the Indian and coloured areas.[35] A 33% rebate on the land value was finally voted.

Debates on the second budget of the new local authorities (1997/1998), brought even stronger opposition to special treatment for Indian areas. For example the South local council decided[36] to grant the Isipingo residents[37] rebates for the past two years, but this decision was taken after a fierce battle. The R152 million 1997/1998 budget was passed despite the town treasurer advising against the rebate and the IFP and independent councillors opposing it. The rebate was said to cost R2 million to the council and the press accounts used the issue to set the different components of the sub-structure against each other. They noted that this would have to be funded from funds derived from former KwaZulu townships - ie. the black areas -

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[29] Inter-ministerial committee on the state of local government finance, Discussion Document version 1, September 1994, p.12.
[30] The Mercury, 10.04.1996.
[31] Ibid.
[32] Minutes of the Joint Exco Meeting of North Central, South Central and Inner West Local Councils, 24.02.1997.
[33] Ibid. The exco adopted the ANC position which led to a rates rebate of 50% for coloured and Indian area for 1995/96, 1996/97, 1997/98.
[34] Inner West local council, Minutes of the Exco, 10.12.1996.
[35] Interview with cllr K. P Chetty, ANC ward councillor of Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 21.01.1997.
[36] The Mercury, 29.08.1997.
[37] Isipingo residents had been holding a rates boycott since 1995, paying only 50% of their rates "because they have been forced to pay inflated rates during apartheid." The Mercury, 29.08.1997.

and Kingsburgh, Umbogintwini, Amanzimtoti and Lower Illovo.[38] In the former Durban Central councils, the decision was taken to undertake further evaluation to determine whether the effects of the former Group Areas Act were still causing land values in former Indian areas to be inflated.[39]

Another issue linked to the Indian boycott of rates gave rise to even more heated debates. This was the writing off of penalties for non payment. The controversy was linked to the rather mild policy applied in black areas. One of the reasons the councils decided to write off the penalties was to encourage township dwellers to pay for their rates again by starting with a 'clean slate'. This measure was not so necessary in Indian areas where the culture of non-payment was less entrenched. The Inner West council recommended[40] (subject to the approval by the Premier) that the penalties for non payment in 1994/95 and 1995/96 be abated if payment was made within 60 days of the Proclamation. The South local council also agreed,[41] subject to agreement by MEC Miller, to waive all penalty interest for the two years. Other councils in the Durban metropolitan area did not take the same decision. A joint meeting of the South Central and North Central exco at the end of February 1997 refused to absolve Indian rates boycotters for 1994/95 from penalties.[42] The decision provoked an interesting split in the council between Indian councillors (whether MF or NP) and the other representatives. The 'white component' of the NP was reported to have sided with the ANC and DP[43], showing that when it comes to take a decision on a specific race group, party discipline is difficult to enforce. This question led to strong attacks on white councillors from the leader of the Minority Front, Mr Rajbansi. In an open letter to The Mercury, he made the racial overtones of the issue quite explicit. He accused the DP deputy-chairperson in the exco of the North Central council Margaret Ambler-Moore of:

> *... leading the ANC by the nose... the past racial council of which she was a member did not show any sympathy towards the demands of the Indian and the coloured people against apartheid valuations. She and her DP will not face the MF at rates public meetings because she will not be able to defend herself morally and politically... In Sandton the DP championed the cause of the ratepayers. Of course, they were whites. In Durban the fight is mainly by coloureds and Indians... If there is an*

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[38] Ibid.
[39] The Mercury, 05.03.1997.
[40] Inner West local council, Agenda of the Exco, 17.09.1996.
[41] The Mercury, 29.08.1997.
[42] The Mercury, 25.02.1997. But for the 1995/96 budget, penalties and costs for non payment were abated if unpaid rates were paid before 3 March 1997. See Minutes of the Joint Exco Meeting of North Central, South Central and Inner West Local Councils, 24.02.1997 and The Mercury, 06.02.1997.
[43] Ibid.

unwise party on the rates issue it is the ANC. Here they are also being led by bureaucrats.[44]

The issue of rates and several others[45] pointed out at the extreme sensitivity with which policies affecting the Indian minority have to be tackled. Because Indians consider that they "were not white enough during apartheid and are not black enough now",[46] they are eager to claim the same rights of redress for apartheid's inequalities as black communities. In this context, local government is one of the main policy makers which can repair the damages caused by apartheid policies - established by the government but also by former white local authorities[47] - to the Indian communities and make them feel an equal member of the new local citizenry. The challenge is to strike a balance between policies favouring Indian and black citizens.

1.2 - In rural areas

We have seen how difficult it was for the urban citizens to consider themselves as belonging to the same administrative entity headed by a common political body. People still tend to think, because of the fragmented structure of the apartheid city and because of past discriminations, in terms of homogeneous entities based on race and a common interest.

In rural areas, the problem is posed in different terms because the presence of local government - and the state in general - is new and still very weak. For the regional councils, the challenge is not to be recognised by people who would prefer to have a local authority defending their own group's interests. Regional councils have to make their presence felt in areas where the notion of allegiance to a South African government is underdeveloped. Rural local government has the capacity to play a role in terms of delivery and development and through those projects, they have the opportunity to build a partnership with the rural communities. This will ensure that rural dwellers will be integrated in the national polity.[48]

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[44] The Mercury, 07.03.1997. Rajbansi also reacted strongly to the Eldorado Park (Gauteng) riots concerning rates. He told the press that the coloured and Indian communities "are about to explode. The culture of non-payment in black areas coupled with the selective cutting off of water and electricity in coloured suburbs where higher rates are charged has sparked anger." Sunday Tribune, 09.02.1997.

[45] Another source of tension has been the increase of rents of council flats. The two Durban Central councils had to take a decision on the matter in May 1997. Municipal flats, mostly in Phoenix and Chatsworth were expected to face a 8.5% increase. It was the occasion for South Central ANC councillor T. Ntuli to declare that the council has to generate income and that this below-inflation increase was reasonable "compared with the rates the disadvantaged communities in townships would have to start paying soon". (The Mercury, 16.05.1997).

[46] Interview with cllr M. Rajbally, deputy-mayor of the South Central local council, MF ward councillor for Chatsworth, whip for the Minority Front, Durban, 04.03.1997.

[47] Cf. chapter 1, pp.15-17.

[48] Munro states that the two means which ensure that the state is recognised by rural communities is the access to material resources and governance and that the role of local government is crucial in this process: "states must negotiate the contours of citizenship with their population. ...in contexts where the presence of the state in rural society is weak or limited, such negotiations are channelled both through local institutions of governance and through local structures of service delivery". (Munro W., 'Re-

Regional councils face two problems in this task, namely a lack of control of the delivery process and difficulties to make communities participate in this process.

1.2.1 - Services delivered by other spheres of government

The tendency of the provincial and central government to control delivery and the uncoordinated way services have been provided,[49] partly explain why the province and the central government are bypassing regional councils and implement projects on their own. The two spheres are continuing to liaise directly with the rural communities and push their own planning agendas. The national and provincial governments do not see local government as a partner but as an agent.

The consequence of this situation is a lack of control of local government over what is happening in its jurisdiction. The Zululand regional council commissioned a study on co-ordination of development in the region.[50] The report noticed that collaboration was wanted by all service providers but pointed to the "other relevant role players' fear". It stated that service providers were considering the regional council as:

- "A political animal which does not understand the potential of development";
- An institution which will "intervene at a political level with development projects";
- A body which "cannot distribute information well enough";
- "A small role player [which] cannot understand our programmes".[51]

Morris and Barnes identified three national departments which operate directly in rural KwaZulu-Natal, without involving local government. The Departments of Water Affairs and Forestry (DWAF), Energy and Mineral Affairs and Land Affairs. According to the two authors, regional councils:

> *... are by-passed in a manner that ensures complete central government control over the institutional framework within which the delivery of crucial services takes place... The argument being put forward by the central government is that their services are a national concern and as such should be controlled by the national government. It is also*

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forming the post apartheid State? Citizenship and rural development in contemporary South Africa', in Transformation No. 30, Durban, University of Natal, 1996, p.4.).

[49] See chapter 9, pp.357-367.

[50] Dr M. Taljaart, 'Report on Co-ordination of Development in the Zululand Region', June 1997, included in Zululand regional council, Agenda of the Council, 12.06.1997. This report was the result of concerns expressed by the CEO in February 1997 that "there is a total lack of co-ordination and planning, implementation and funding.... [whereas] regional councils are best suited to act as a facilitator of such function in all planning development and actions". Item submitted to the Zululand exco by the CEO, Zululand regional council, Agenda of the Exco, 27.02.1997.

[51] Zululand regional council, Agenda of the Council, 12.06.1997.

contended that there is insufficient institutional capacity at the local government level to involve them in the delivery process.[52]

It is true that national and provincial departments' interventions have resulted in many regional councillors feeling undermined. Nearly every exco meeting gives the opportunity to councillors to complain about the attitude of one department or another. uThukela councillors passed a very strong motion in November 1996 against the provincial Departments of Education and Transport "and their autocratic and centralised action". The council asked the "KwaZulu [sic] government departments to enter into negotiation with the uThukela regional council which is a legitimate structure for project implementation and delivery of service close to the people."[53] A few months later, another councillor informed the uThukela exco of his "great dissatisfaction with the manner in which the Department of Education is awarding contracts to contractors and is employing labour from outside our area."[54]

The DWAF is the department whose intervention has created the most controversy, possibly because one of the only visible actions of some regional councils is to bring potable water and sanitation. The water supply function was devolved to the DWAF in 1994.[55] Before, it was solely a local government responsibility. Because the model and functions of local government were at that stage uncertain, some Water Boards decided to go beyond their institutional role (bulk supply of water) and entered the realm of reticulation to rural end-users.[56] This offered the most effective available means of delivering clean water. However, water reticulation is the main benefit delivered to rural communities. The fact that another parallel structure was being seen as delivering, was likely to create problems of legitimacy for the new rural local authority.

At the beginning, the DWAF did not really take the regional councils seriously despite the fact that water supply and sanitation had been designated as a local government function in the constitution and that local government was recognised as the water services authority responsible for ensuring that all residents within their area of jurisdictions are being provided with safe drinking water and sanitation services.

For example, just after the local elections, the DWAF announced to the iNdlovu regional council that it had "allocated R16 million for water projects within the regional council and that a list of prioritised projects would be submitted to exco for information."[57] However, this

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[52] Morris M., Barnes J., KwaZulu Natal's Rural Institutional Environment: its Impact on Local Service Delivery, Land and Agricultural Policy Centre, Working Paper 49, August 1996, p.15.
[53] uThukela regional council, Minutes of the Exco, 29.11.1996.
[54] uThukela regional council, Minutes of the Exco, 07.02.1997
[55] Including in the former homelands where the DWAF had no previous jurisdiction.
[56] Example of the Umgeni Water Board's Rural Areas Water and Sanitation Programme in May 1994. See Christianson D., 'Cut and come again: The quest for viable rural local government', in Development Southern Africa, Vol. 12 (4), Johannesburg, August 1995, p.617.
[57] iNdlovu regional council, Minutes of the First Special Exco, 10.09.1996.

disregard of the regional councils' authority was not repeated thereafter and relations seemed to have improved in terms of joint planning.[58]

The contentious issue which angered regional councillors was the role allocated to local authorities in the process of delivery. Regional councils do not have enough funds to provide water directly,[59] but most of them manage RDP money on behalf of the DWAF. The department has produced a document entitled "Towards a local government support programme" where it describes its role and the one of local government:

> *The department believes that the provision of local services should be the responsibility of local government, not only because the constitution says so, but also because it makes good developmental sense which has been borne out by world-wide experience.... The role of local government includes needs assessment, planning, budgeting, appointment of consultants, employment of staff for administration, operation and maintenance. The collection of revenue from users is critical.... The responsibility of the national government, is to ensure that adequate norms and standards are applied.*[60]

Despite these good intentions, the situation on the ground is often tense. Problems have arisen because of the BOT ('Build Operate and Transfer') policy of the DWAF for water supply and sanitation programmes. The idea is that the projects financed by RDP funds provided by the department, should employ a programme implementing agent (PIA) which will play a technical role (carry out investigations on projects, prepare business plans, deal with operation and maintenance) but also mobilise the communities (organisational development; capacity building around the project). The objective is to transfer the infrastructure to an operating authority with the capacity to operate and maintain it.[61]

The Zululand regional council opposed the appointment by the DWAF of programme implementing agencies using the principle of BOT because the CEO stated that the regional council could handle the money itself. When Mhlatuze Water Board was appointed as a PIA by the DWAF, the regional council complained that it would be unacceptable because "the supply

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[58] Officials from iNdlovu were involved in the prioritisation of projects for the fourth round allocation of RDP funding for community water supply and sanitation projects, run by the DWAF. Agenda of the iNdlovu Exco, 20.03.1997. In uThungulu, the regional council was involved for the first time in 1997, in the prioritisation of a round of RDP projects and DWAF promised that no further funding would be allocated by the department without the projects first being discussed at local level. See address of Mr Thys Badenhorst (DWAF) to the regional council's members, uThungulu regional council, Minutes of the Exco, 29.05.1997.

[59] "Local government may, but does not have to, be the water service provider within its area of jurisdiction, [and] may use any other organisation to be the water service provider." Statement to the iNdlovu exco by Gary Quilling, a representative of the DWAF. See iNdlovu regional council, Minutes of the Exco, 20.03.1997.

[60] DWAF, Towards a Local Government Support Programme, October 1996, in iNdlovu regional council, Agenda of the Exco, 20.03.1997.

[61] Zululand regional council, Agenda of the Council, 12.061997.

of water is one of the main functions of the RC, which is a democratically elected council and should be in control."[62] The uThungulu regional council took the same position:

> *Those* [BOT] *contracts will privatise the role regional councils previously held for the department on RDP water projects, and will reduce the amount of involvement the council had in the programmes. It also reduces the opportunities for emerging consultants, contractors, and training people to get involved with these projects... The council is made up of elected councillors representing the rural communities and is already acting as PIA for the development. ... If the process is privatised, the councillors lose their representivity in the community...*[63]

The Zululand regional council insisted in being involved in the whole process of RDP from receipt of applications to the prioritisation, implementation and maintenance phases. The DWAF finally backed down and proposed to send a letter to each regional council describing the staff requirement for the next round of RDP projects. The CEO was confident that the projects could be conducted in house, provided the appointment of a co-ordinator for community development (which was already budgeted).[64]

There has been a change in attitude on the part of the DWAF regarding the role of local authorities in the provision of water and sanitation in rural areas.[65] Indeed, in terms of the Water Services Act[66], rural and urban local authorities have been Water Services Authorities since 1997. This means that they are responsible for ensuring access to water services in their jurisdiction. They must plan for water access in their integrated development plans or in a specific water services development plan. They must chose between providing the services themselves or contracting with a provider. Finally they must monitor the performance and the water services providers and intermediaries. In theory, local authorities are fully responsible in terms of planning, provision and supervision. In practise, there is still a problem of capacity.

There are hopes for similar recognition from other departments.[67] Regional councils have themselves taken initiatives to co-ordinate the activities of the various service providers.[68]

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[62] Zululand regional council, Agenda of the Council, 24.04.1997.
[63] uThungulu regional council's by-monthly agenda, Uhlelo, 1 May to 30 June 1997, p.2.
[64] Zululand regional council, Agenda of the Exco, 23.06.1997.
[65] "The DWAF has committed itself to a systematic institution-building programme at the local government level to ensure local government involvement in the programme." Ministry of Constitutional Development and Provincial Affairs and the White Paper Political Committee, White Paper on Local Government, Pretoria, March 1998, p.51.
[66] Water Services Act, Act 108 of 1997.
[67] The provincial Department of Transport invited the regional councils to a transport plenary meeting in order to set up a structure that will bring together province and local government. Mention was made in the invitation of the "co-operative effort of all spheres of government. This will require two essential elements: political commitment to the vision and policies, and co-ordination at the official level in the implementation of policies, strategies and actions." iNdlovu regional council, Agenda of the Exco, 19.06.1997.
[68] See chapter 9, p.358.

However, the problems are far from resolved. There is still a disjunction between the elected representatives who are present - even if very rarely - on the ground and the authorities which are responsible for the delivery. The multiplicity of agencies produces a context favouring clientelism and "deeply complicates government approaches to state construction."[69]

1.2.2 -Other service providers are liaising with communities

Not only do provincial and national governments implement their own programmes without really taking into account the regional councils. They also liaise directly with the rural communities in order to determine their priorities, undermining even more regional councillors' legitimacy.[70] The structures of local government should provide the natural conduit for 'people-driven' development, based on state-community alliances. But the fact that other service providers are setting up their own consultative processes gives to rural dwellers, a fragmented, confused and poor image of government.

The fact that institutions are directly consulting local communities about service delivery is a national phenomenon:

> *Several departments have established local institutions which bypass local government. ... Parallel structures may also undermine the authority of local government to govern in those areas over which it has constitutional jurisdiction.*[71]

In KwaZulu-Natal, the danger may be greater than elsewhere in that the province does not have primary tiers of local government in rural areas which could be easily mobilised by other service providers. Besides, the conflict has taken a clear political undertone, with most of the IFP rural councillors accusing the national government and the three ANC portfolios in the provincial government (Transport, Health and Economic Development and Tourism) of bypassing them because the "ANC wants to be seen as delivering alone."[72]

Whatever the reasons are, the tendency of national and provincial governments to consult 'the communities' and drawing up their own planning process is worrying, not only because

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[69] Munro, 'Re-forming the post apartheid State?", p.5.

[70] However, the entire blame must not be put on the provincial and central departments. Regional councils are also responsible for this state of affairs. They have not transformed to the point of being a factor of participation of the rural population to the decision-making process. See chapter 8, pp.310-314.

[71] Ministry of Constitutional Development and Provincial Affairs and the White Paper Political Committee, Green Paper on Local Government, Pretoria, Government Printer, October 1997, p.19.

[72] The chairman of the iNdlovu regional council stated once to his fellow councillors that "if you are politically aware, you will understand what is going on. People are eager to be seen as delivering." (iNdlovu sub-regional committee 1, prioritisation meeting, Wartburg, 05.03.1997). Another iNdlovu regional councillor complained during an interview that "the ANC is trying to set up parallel structures corresponding to all the ANC portfolios in the province: Tourism KwaZulu Natal, the Regional Economic Forum, the Transport Forum. That creates duplication and is a waste of money for political purposes." For more details, see chapter 9, pp.367-369.

that prevents coherent local economic development[73] but also because the presence of local government is not reinforced and is even weakened in the process.

The main problems occur with the Department of Transport, Water Affairs and Economic Affairs and Tourism.[74] The former has launched a community road building programme for community access road. This programme established 28 transport forums in the province, representative of "tribal authorities, youth, women's groups, local business, other interest groups."[75] The project applications are prioritised and considered by the department on the basis of its own plans and criteria.[76] During an iNdlovu council meeting, the CEO had to answer to a question from the chairman of the exco enquiring about the transport forums and their relationships with the regional council[77] It appeared that CEO had made many contacts but there was nothing he could do about the duplication that was taking place (the regional council was also in the process of initiating transport forums). The chairman of the exco reacted strongly, emphasising rather awkwardly that regional councillors were legitimate to consult rural communities because they had been elected, whereas it was officials (and not politicians) who were consulting for the provincial and national departments: "we cannot legitimate those forums because they are set up by government departments which are not democratically elected."[78] Many councillors feel that through the process of consultation initiated by provincial or national departments, communities' expectations are raised and that councillors are put in the difficult position of accepting direct delivery by national or provincial government or facing popular discontent:

> *It is difficult for councillors to contest the actions of the departments because they have the support of the community and if we intervene, the provincial officials say to the people that we are blocking development.*[79]

On the same pattern, the KwaZulu-Natal Tourism Authority envisaged the establishment of tourism boards, in parallel to existing regional standing committees, specialising in the promotion of tourism. The iLembe's exco expressed its fear that this would result in "great confusion" and resolved to ask the regional council tourism committee to be recognised as the tourism body in the region.[80]

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[73] See chapter 9, pp.365-366.

[74] Departments which incidentally are all held by the ANC at the provincial level or running on a deconcentrated basis from the ANC national ministry in Pretoria.

[75] Sunday Tribune, 25.05.1997.

[76] McIntosh A., Xaba T., Draft Proposals Towards an Integrated Rural Development Policy for KwaZulu-Natal, Durban, non published, August 1997, p.34.

[77] Technical prioritisation meeting for the iNdlovu regional council, 11.02.1997.

[78] Against this legitimacy through the ballot paper, the Department of Transport could claim a stronger one. It had investigated the needs in the province and was able to set up its priorities. The Transport Department had the legitimacy of consultation and technical expertise whereas the councillors could only stress over and over again that they 'represent' the people.

[79] Interview with cllr B. R. Ngcobo, chairman of the Ubumbulu standing committee, IFP member of the iLembe exco, Durban, 20.11.1997.

[80] iLembe council meeting, 04.111997.

The approach of the DWAF was more diplomatic.[81] It proposed to the regional councils that it should set up 'area forums' led by local governments and comprising different interested parties (local authority, DWAF, community and civic structures, NGOs, consultants). The purpose was the planning and the managing of water supply and sanitation projects and also "one of the most important functions of the forums will be to ensure that integrated development takes place at local levels."[82] However, even this mild approach raised some concerns among the councillors. The chairman of the iNdlovu council was adamant that all the role-players in the provision of water worked through the sub-regional committees. He stressed the need for the implementing agent to work through the elected councillors and rejected the proposal to have working groups between area forums and standing committees. He asked the area forum to dovetail with the standing committees.[83]

We have seen that provincial and national departments have tried to provide services directly, either by using their own field staff, or by making use of consultants or NGOs. Different departments have established their own forums at a local level to consult with communities about their service delivery needs. This has prevented harmonious delivery and blurred the image of the state.

Some measures have been taken which could - directly or indirectly - help to create a sense of common belonging and local citizenry in rural and urban areas. For example, the use of new symbols, symbols of transformation, could be a way for local councils, especially in urban areas to break the apartheid boundaries.

2 - The solutions?

2.1 - Use of symbols

The physical division of the urban space is a reality but there are many 'spaces' in which a citizen lives and an important one is related to symbols and beliefs. Duncan and Goodwin[84] speak of the 'spatial division of the imagined community'[85] to stress the consequences of physical division on the mental representations. In a divided society, it is important to find unifying symbols, events, or charismatic leaders[86] who could create rapid commitment and

[81] DWAF is more sensitive than other departments to regional councils' complaints because water delivery is a function which rural local authorities have been very reluctant to delegate. This is explained by its importance for the survival of rural communities. Therefore, the department had very early to establish a *modus operandi* with the regional councils and avoid confrontational attitudes.

[82] DWAF, 'Towards a Local Government Support Programme', October 1996 in iNdlovu regional council, Agenda of the Exco, 20.03.1997.

[83] iNdlovu regional council, Minutes of the Exco, 20.03.1997.

[84] Duncan S., Goodwin M., The Local State and Uneven Development, Cambridge, Polity Press, 1988.

[85] Ibid., p.75.

[86] One of the debates in the White Paper on Local Government is whether to allow for the option of a directly elected and executive mayor. One of the reason which justifies this option in the eyes of the

unity at the symbolic level. The researcher has concentrated on two council's policies which have an impact on the new image of the local authority: the creation of a new symbolic geography and the way the councils tried to deal with the legacy of the past regime.

2.1.1 - A new symbolic geography

The councillors elected in 1996 had the opportunity to baptise their new local authorities at a symbolic level, by bestowing new names, as well as naming or renaming streets. These are not trivial issues even when measured against pressures for delivery. As already stated, delivery is first a process which has to mobilise the council and the 'community'. Both actors have to feel that they are 'stakeholders' (a term widely used in South Africa) of the process. Symbols can help to translate the mere feelings of (inter)dependence - when they exist - into a sense of common belonging.

2.1.1.1 - The names of the streets

Street names are a powerful tool which could emphasise the political change in South Africa and honour historical figures who played a role in the fall of apartheid in the country. In Pretoria[87] the ANC, even if the proposals have not translated yet into decisions, suggested that Church Street be renamed Oliver Tambo St., Church Square, Madiba Square and 29 other streets be changed.[88]

In KwaZulu-Natal, this issue did not mobilise the local councils. Municipalities try to avoid the exercise of renaming the streets and councillors are in general happy to keep the *status quo*. In Mandeni, "there are only four or five streets which bear people's names. The rest are called according to plants and trees."[89] In Ladysmith /Emnambithi, the lack of interest in the exercise is prevalent. Councillor Rassool stated that:

> *... the names for the streets are important for practical purposes but has nothing to do with symbols because we are going to choose neutral names (plants, animals...).*[90]

Ministry of Constitutional Development is the need to "give a face to local government and create a strong focal point for local politics". Ministry of Constitutional Development, White Paper, p.84. The mayor is traditionally the embodiment of the community, the ceremonial head of the citizens If he is directly elected, one can hope that people will more easily identify the source of the decisions and be more willing to accept them.

[87] The Mercury, 19.09.1997.

[88] In addition, the deputy-secretary of the ANC in the Pretoria region told the metropolitan council that Strijdom Square should be renamed Oliver Tambo Square and that the bust of the former NP prime minister should be replaced by a bust of Tambo. Ibid.

[89] Interview with cllr Beningfield, chairman of the Mandeni exco, Independent, Mandeni, 14.07.1997.

[90] Interview with cllr K. G. Rassool, deputy-mayor of Ladysmith/Emnambithi, ANC PR councillor, Ladysmith, 20.08.1997. A municipal official confirmed that councillors were not interested at all in naming the streets of eZakheni.

In Richards Bay, the municipality preferred to name the streets of the townships, using neutral names such as fish, trees...[91] In Estcourt, the decision was taken that the streets of Wembezi should be renamed,[92] but that does not seem to attract a lot of attention from the councillors who are not concerned by such an exercise.

Only two TLCs in KwaZulu-Natal have been exceptions to this rule. The Empangeni council voted the naming of the main road of Ngwelezana township after IFP president M. Buthelezi. In reaction, the ANC North Coast region warned that this would cause conflict in the township and that the council had earlier decided not to name any street after a person "particularly names which in the past caused bad blood and violence between the members of the ANC and the IFP". 80 % of the councillors approved the name, after the issue had gone on for more than a year.[93] Another North Coast TLC (KwaDukuza/Stanger) created a sub-committee to deal with the issue of street names. There, the choices made were less contentious. The interim council had already changed one name (King Shaka Rd) and the new council voted for a Chief Lutuli street.[94]

2.1.1.2 - The names of the new municipal entities

Neither did most of the councils take the opportunity of a new christening of their local authority, preferring instead joining the old name of the white local authority and a more "African name" like Pietermaritzburg/Msunduzi (the name of the nearby river), Ladysmith /Emnambithi (name of the area) or Estcourt/Wembezi (the name of the amalgamated township). Only a few councillors interviewed thought that names were an important factor of common identification. Cllr M. M. Meyiwa stated that:

> *The logo and the new name are important for the people to 'interpret the change'. But we must be careful that the name is acceptable by all and it will not be necessarily in Zulu.*[95]

In the case of local councils in the South African metropolitan areas, new names had to be found because totally new municipal entities were being delimited. Durban chose to refer to its sub-structures according to their geographical position (North, South, Outer West etc.). The local councils were then left with the choice to adopt a new name if they felt that theirs was not adequate. It is hard for people to identify with an "Outer West" or a "South Central" local council. Names which describe a purely geographical location tend to hide the fact that there is

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[91] Interview with Mr Vosloo, assistant town secretary, Richards Bay TLC, Richards Bay, 16.07.1997.
[92] Estcourt transitional local council, Agenda of Council, 23.04.1997.
[93] The Mercury, 25.09.1997.
[94] Reynolds Street was renamed in 1998 for the centenary of the birth of Chief Lutuli. At the same time he received the posthumous freedom of the town. Sunday Tribune, 19.04.1998.
[95] Interview with cllr M. M. Meyiwa, ANC PR councillor, deputy-mayor of the Outer West local council, Kloof, 09.06.1997.

no other possibility of describing the place with a name symbolising the whole area. But only one sub-structure (Inner West local council) in the Durban metropolitan area has so far found it important to create a new image by adopting a new name.[96] After a public competition organised by the council through the local press, 210 answers from the public were received. They mainly emphasised on the reconciliatory and peaceful nature of the South African transition (Mandela city, Simunye, City of Ubuntu, Democratic city, Peace city ...[97]) and very few stressed the new black majority rule (Azania city). A working group made up of councillors was then set up to short list the proposals.[98] The criteria applied were that the name should be easy to pronounce, short, and have an historical significance.[99] The working group suggested that the name be Mangangeni City, in reference to the first tribe which settled in Pinetown.[100] Opponents argued that the name had no meaning to the large black community, nor to the whites, Indians and 'coloureds'.[101] The proposal was dropped and instead, 'eThembeni' (the place of hope) was chosen, because, according to the mayor, it gave "a common sense of belonging."[102] A costly eThembeni celebration took place in April 1998 despite the uncertainty over the future of Durban's local councils after the release of the White Paper on Local Government. The chairman of the exco justified it by the fact that:

> *... it still remained important to celebrate the new unity that had been created with the 13 separate entities being united under one council... It is important for people from the different entities to realise they are all part of a common citizenry... working for a common vision.*[103]

Apart from the Inner West,[104] councillors do not seem keen to tackle the subject. For example in the Outer West local council, the idea of a competition being arranged to encourage ideas from the ratepayers/communities for a corporate emblem/logo was submitted to the council just after the elections.[105] Nothing has been done since, and it is clearly not a priority of the councillors.[106] The chairman of the exco[107] was happy to leave the design of the new logo to the metro Communication Department.

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[96] The North Central local council's economic development and infrastructure sub-committee asked to amend the local authority's IDP in order to address the problem of the renaming of the municipality so that "its own special identity can be created". However, this proposal was not followed by any action. Economic development and infrastructure sub-committee, Amendments to the Second Draft of the IDP for the North Central Local Council, 20.03.1997.

[97] Inner West local council, Agenda of the Exco, 05.11.1996.

[98] Inner West local council, Minutes of the Exco, 05.11.1996.

[99] Inner West local council, Agenda of the Exco, 18.02.1997.

[100] Ibid.

[101] Inner West local council, Minutes of the Exco, 18.02.1997.

[102] Inner West local council meeting, Pinetown, 28.051997. The researcher was present.

[103] The Mercury, 01.01.1998.

[104] This local council has put a strong emphasis on the issue because councillors advised by the town clerk, realised that the new administrative entity must have a specific identity in order to attract investors. It was also necessary to overcome the parochialism of some former administrative entities like Westville.

[105] Outer West local council, Minutes of the Exco, 06.08.1996.

[106] Interview with Gerald Strydom, CEO of Outer West local council, Kloof, 12.05.1997.

Some of the regional councils also adopted new names. Some were forced to do it because some JSBs were split into two and the new regional councils did not have any names. This was the case with regional councils one and three. Some others wanted to break away from the past and the reference to the old JSB.[108] In general, the names and the logos are neutral, emphasising the natural assets[109] or the history of the region. The iLembe CEO explained that "iLembe was the name of Shaka's mother. iLembe is the place of Shaka."[110] This does not seem to pose any problem to the ANC in the region: "Shaka is our King. This is no political harm to us."[111]

There are very few TLCs in which the problem of the name of the new local authority was debated. Some municipalities do not even seem to bother putting up new signs on the road. The Dolphin Coast TLC did not advertise its existence. The travellers still see the old names on the traffic signs (Ballito, Shakaskraal, Etete, Tinley Manor Beach, Umhlali Beach).

Stanger was one of the only towns in KwaZulu-Natal to have taken the radical move of changing the name of the new TLC. It is now officially called KwaDukuza[112] which is the name used by the Zulus for the place before the whites arrived. The change was less radical for the Mandeni TLC. The new name of the municipality was debated during the pre-interim phase.[113] "Mandeni" was chosen because it is neutral and refers to the name of the river. It replaces officially the name "Mandini" which corresponded to the former white area of the town.

Those timid changes do not appear to have any impact on the identification of urban dwellers with the territory of the new administrative entity. In day to day life, it is not common to identify Sudumbili or Isithembe with "Mandeni". People still use the old names, which is scarcely surprising considering the lack of physical integration of the different components of

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[107] Interview with cllr Brian Nair, chairman of the exco of the Outer West local council, ANC, Kloof, 04.06.1997.

[108] In iNdlovu, the problem of the emblem was posed early. The choice between retaining the old one or creating a new emblem gave the opportunity to the exco members to express their feelings about the old JSB. Several IFP and ANC regional councillors wanted to break with the past and did not want the regional council to be associated with the JSB. On the other hand, some wanted to retain it as a sign of continuity. (Attendance of the iNdlovu exco meeting, 19.11.1996). The problem lasted until May 1997 when a new coat of arms was accepted by the full council. The elephant was adopted as an emblem, in coherence with the name. (iNdlovu council meeting, Pietermaritzburg, 29.05.1997).

[109] Ugu regional council's logo (South coast) shows the sand, the sea, the sky and a rainbow. The river is the identification of the uThukela RC and the buffalo in uMzinyathi (uMzinyathi means the place where the buffalo lives). uThungulu is represented by a tree along the coastal strip.

[110] Interview with Mr Buks Pretorius, chief executive officer of the iLembe regional council, Durban, 05.09.1997.

[111] Interview with cllr Bantu "Selbi" Makhanya, iLembe exco councillor, chief of the ANC caucus, Durban, 10.09.1997.

[112] KwaDukuza means 'to walk in the dark' or 'to wander in the mist'.

[113] Interview with cllr Beningfield, chairman of the Mandeni exco, Independent, Mandeni, 14.07.1997.

the Mandeni TLC. The town is a reality from an administrative point of view[114] but it has no reality for the citizens.

2.1.2 - Remains of the past

What the new councillors elected in 1996 found in municipal buildings and in their towns, were symbols from the 'past'. Removing them and creating new ones proved politically sensitive.[115] In KwaZulu-Natal, the main problem facing the new council was to decide what to do with the British legacy. Should they build on it or scrap it totally?

2.1.2.1 - Portraits

In municipal buildings, photographs of the previous councils frequently hang on the walls of corridors or in the council chamber (a good example is in Ladysmith/Emnambithi). New councillors have had to decide whether they would keep them or hide them somewhere. It seems that this has only become a contentious issue in the Durban area. Even here, not all the local councils have experienced the problem. In central Durban, the two Central councils hold their meetings in the City Hall where the walls are covered with portraits of past councillors. The Hall is a tourist attraction and councillors are not as sensitive to these evocations of the past as councillors in the peripheral local councils. Councillor Mari[116] reports that:

> *There was talk in the corridors about the photographs in the city hall but I think that the historic value is great (especially for tourists) and anyway there are other priorities to look at.*

By contrast, the Inner West local council decided to transfer all the portraits and artworks from the previous council to the provincial archives depot in Durban.[117] In the Outer West local council a special sub-committee was set up on the matter and decided that "all portraits of past councils and mayors be suitably acknowledged and preserved in official albums and portraits of President Mandela and the first Outer West council be displayed in the offices of the civic centre."[118] The chairman of the exco felt strongly about the measure:

> *It was necessary because we are trying to develop a new identity and the photos reminded us of the past division of the local authority whereas*

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[114] At least, the administrative aspect of the integration is something that will be solved in the next years.
[115] For example, in Phalaborwa (Northern province), the council members found themselves opposed over an ox-wagon and an old South African flag. The council had decided to remove all apartheid signs including some street names, to take down the photographs of past mayors and councillors in the building but also to remove an ox-wagon in front of the council building, because it was covered by the old flag. Sunday Tribune, 08.02.1998.
[116] Interview with cllr G. Mari, NP ward councillor, member of the exco of the North Central local council, Durban, 11.06.1997.
[117] Inner West local council, Minutes of the Exco, 04.02.1997.
[118] Outer West local council, Minutes of the Council, 26.02.1997.

now we are one local authority. We are still fighting against the resistance of the different entities to the amalgamation and we have to develop a corporate image. Besides we do not want to be reminded of the past government each time we pass in front of them.[119]

2.1.2.2 - The mayoral chain

An important symbol for municipal office bearers in the apartheid era (and even before) was the wearing of the chain. Mayors and deputy-mayors, following the British tradition, would wear the chain when officiating during public functions or in council meetings. The question about whether or not to retain this tradition was posed after the 1996 elections in the Durban councils At first, the ANC stated that its Durban mayors would not wear the mayoral chains until the party had thoroughly debated the issue.[120] Indications were that the traditional symbols were destined for the museum. However, the pull of tradition proved too strong. The issue of the mayoral insignia was addressed during a mayoral workshop[121] and a joint statement was issued by the metro mayors in July 1996, explaining their decision to retain the use of the mayoral chains.[122]

Wearing the chain bears the symbolic meaning of accepting the burden of municipal offices. Like wearing a robe in council (as is still done during the Ulundi and Glencoe council meetings), it means adopting a specific tradition, foreign to most of the new councillors.

Perhaps to a surprising degree, the new councillors accept the utility and force of tradition in the wearing of past regalia. In Ladysmith, the names of all the past mayors are written on the chain and this has caused some resistance.[123] But this has not been serious. Some councillors put forward some practical reasons for acceptance: "I wear the chain because it is the only way to recognise me"[124] or "it is important to wear it so that the first citizen can be spotted in functions."[125] Another explanation is that councillors do not really understand what that symbol means and often are totally mistaken about its signification. A Ladysmith/Emnambithi councillor stated that the SACP in town did not want the chain to be worn because of the "dollar sign" in the chain. In fact, it is decorated by an L and a S intertwined (for Ladysmith) which was mistaken for a dollar symbol!

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[119] Interview with cllr Brian Nair, chairman of the exco of the Outer West local council, ANC, Kloof, 04.06.1997.
[120] The Mercury, 10.10.1996.
[121] Inner West local council, Minutes of the Exco, 22.07.1996.
[122] Inner West local council, Minutes of the Exco, 14.10.1996.
[123] Interview with cllr S. D. S. Vilakazi, mayor of Ladysmith/Emnambithi TLC, ANC PR councillor, Ladysmith, 21.08.1997.
[124] Ibid.
[125] Interview with cllr Brian Nair, chairman of the exco of the Outer West local council, ANC, Kloof, 04.06.1997.

Very few of the councillors interviewed talked about the importance of the symbols and justified the use of the chain by the necessity to unite the different communities. Councillor Meyiwa was an exception:

> *We had a very harsh discussion over the issue of the mayor chain. Some very young and short-sighted politicians wanted to get rid of it and to invent something new because it was too anchored in the past. But you cannot change everything. You must take things that you feel are acceptable because you need to accommodate all segments of the population (for example conservative people). Perhaps soon, we will have to revisit the chains because the old symbols are on them but we will not get rid of them.*[126]

Councillor Brian Nair agrees:

> *It does not mean that by wearing the chain, we are continuing the Westminster system but we have to underline the continuity between the past and the present. It would have been a radical move to have rejected the chain totally.*[127]

In KwaZulu-Natal local authorities, this insignia was retained and if some changes were made, it was a redesign of the chain so that it could represent the new municipal entity (the metropolitan mayor has added a South African flag on his). But due to lack of funds, the majority of mayors still wear the old chain.

Councillors tended to express more sensitivity on the issue of what to do with the paraphernalia of the past, than what kind of new symbols to invent for the "transformed" municipal entity. During the interviews, councillors became more passionate about whether or not to keep old councils' photographs or the mayoral chain, than about street names. Even if in both cases, the options chosen were very cautious and new councils did not want to rock the boat too much, it is obviously easier to take measures to scrap the past than to create new symbols of common belonging. The councils' policies about symbolical matters are in general very conservative about creating a symbolic common environment.

Perhaps the explanation can be found in the fact that 'nation-building' is not the right term to describe in South Africa, the process of drawing people together under a new political entity, whether it is at the national, provincial or local level.

For example, what Boraine calls 'nation-building' is the creation of a new patriotism, not of a new nationalism.[128] Mattes points out that:

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[126] Interview with cllr M. M. Meyiwa, ANC PR councillor, deputy-mayor of the Outer West local council, Kloof, 09.06.1997.

[127] Interview with cllr Brian Nair, chairman of the exco of the Outer West local council, ANC, Kloof, 04.06.1997.

[128] The first notion corresponds to the belief in the state, the other notion to the belief in the nation.

> *... because pluri-ethnic states can never hope to be national states, they must aim to be civic states. Patriotism is the key glue in multi-ethnic states and is a replacement for the myth of common origin essential to nationalism. It is a patriotism based on the opportunities provided by the new society rather than on a common history. It is the idea of Heribert Adam, using Jurgen Habermas' notion of a civic nation: one based on liberal values of citizenship, not national myths, on the basis of a praxis of citizens exercising their rights.*[129]

In this context, the bet that symbols are effective in creating a local citizenry proved wrong. To promote this objective, it is more useful to initiate measures in order to help citizens to feel part of the decision-making process.[130]

Another solution for the creation of a new sense of common belonging, which can seem at first sight "unworkable" especially in KwaZulu-Natal, is to consider political parties as agents of social cohesion, at least in the council chamber, rather than the main factor of division and confrontation.

2.2 - Political parties as factors of social cohesion?

We have seen that in the Estcourt/Wembezi council, the main line of opposition is not between political parties but between Wembezi and Estcourt representatives. Political parties do not themselves play a negative role when it comes to trying to create a sense of common belonging between the two components of the TLC. The main line of opposition in the council is according to race and geographical location,[131] which happens to correspond also to a political split. Moreover, there are a few signs which seem to prove that parties could be one of the means through which councillors can consider the new TLC as a whole and not only be focused on the interests of their own areas.

2.2.1 - Parties as a means to go beyond the geographical oppositions and grasp the complexity of urban areas

Notwithstanding the accountability problem linked to proportional representation[132], the partial use of PR in the electoral system is positive because it compels at least 40% of the

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[129] Mattes R. B., 'Social Versus Civic Identity: Nation-Building and Democratic Stability In South Africa', Paper delivered at the Institut Francais d'Afrique du Sud, Human Sciences Research Council and Foundation for Global Dialogue Conference: Identity? Theory, Politics and History, Pretoria, 3-4 July 1997, p.7.

[130] See chapter 8, pp.295-310.

[131] See chapter 9, pp.396-397 for examples in regional councils.

[132] See chapter 8, especially pp.310-311 and 326-332.

councillors to move beyond 'ward parochialism' and consider the TLC as a whole.[133] Due to the extreme differences existing between the different parts of the town, "PR is good to avoid territorial confrontation in council between ward councillors. This prevents too much polarisation".[134] Councillor Naidoo adds that "PR gives the possibility to define strategic planning, to look at the overall development and redistribution of resources which is not possible at the ward level."[135]

Because of the present racial separation and of the specific electoral system used for the 1996 elections (homogeneous A and B wards), a ward councillor only represents one racial group, except in the very rare cases of mixed wards such as Sherwood in Durban. The delimitation of wards for the next local elections will be done on grounds other than race. However, it is not likely that mixed racial and economic suburbs will appear in the near future and as a consequence, ward councillors will continue to represent fairly racially homogeneous areas. So, even if some people think that "it is worse for a council is to be dominated by parties"[136], it can be argued that their presence, instead of creating chaos, lessens the potential for clashes between white, black and Indian councillors in TLCs. Issues such as the location of capital projects are not very contentious and this is because thanks to parties, councillors are given policy guidelines, as well as a global picture of the town.

Responding to a question about the advantages of having political parties at local government level, a councillor stated that they were important factors which help councillors to define policies: "we have a work programme to follow, we have a clear idea about the policy of national and provincial government in the area so that it is easier to prioritise."[137] Due to the lack of other systematic forms of councillors' support, the caucus system especially provides them with sometimes unique opportunities to benefit from the expertise and guidance of people they trust. Through the party and the caucus system, councillors are learning about the legal framework in which they act and the technical consequences of their decisions. Each party organises training and workshops for local councillors.[138] They have access to information whose good faith they do not doubt and this is important, especially in TLCs where councillors

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[133] Floyd considered in the 1950s that "the ward system develops a parochialism and sets up conflict between the different parts of a town." Floyd T. B., Better Local Government for South Africa, Pietermaritzburg, Shuter and Shooter, n.d., p.145.

[134] Interview with cllr L. Naidoo, ANC chairman of the exco of the North local council and ward councillor, Umhlanga, 23.10.1997.

[135] Interview with cllr Shoots Naidoo, ANC South Central and metropolitan councillor, Durban, 13.03.1997.

[136] Interview with cllr A. Horton, independent exco member of the iLembe regional council and chairman of the exco of Dolphin Coast TLC, Ballito, 22.10.1997.

[137] Interview with Rev. James Mthethwa, ANC exco councillor of the uMzinyathi regional council, Nqutu, 27.11.1996. Statement confirmed by cllr L. Naidoo, ANC chairman of the exco of the North local council and ward councillor, Umhlanga, 23.10.1997.

[138] Interview with cllr Sipho Zulu, IFP ward councillor of Estcourt TLC, Estcourt, 07.08.1997.

do not trust their officials. For example, a Pietermaritzburg ANC councillor[139] stated that the caucus was the only place from which they could get advice:

> *We do not consult the officials because we do not trust them. We would neither go to any councillor from another party. If an NP councillor knows about a specific subject, we would not consult him because some parties are working with the officials.*[140]

2.2.2 - Discipline of the caucus

Councillors are helped by their caucus and by senior politicians in taking technical and strategic decisions. These are less likely to be based on councillors' individual experiences because they are workshopped by people from different wards and with the help of outsiders. Because of this exposure and also of the discipline which is enforced in the caucuses, the heterogeneity of the parties' members is slowly decreasing. Without political parties, it would be very difficult to "co-ordinate and marshal the energies"[141] of councillors who are coming from disparate backgrounds and sometimes ideologies.[142] Interviews for this study revealed that some councillors belonging to the same political party had very varied opinions over national[143] but more often local issues such as:

- The welfare role of local government;
- The ways and means of public involvement in the decision-making process (for example the need for decentralised offices);
- The notion of public-private partnership for service-delivery

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[139] It is not only the ANC councillors who need some technical and political backing. The NP caucus in Durban for example, benefit from the experience of Gordon Haygarth. Haygarth, now an NP MPP was town clerk of the city of Durban. "He is very valuable. He helps me a lot to get political insight of the situation." (Interview with cllr Pepler, NP ward councillor for the North Central council, and metropolitan councillor, Durban, 15.05.1997).

[140] Anonymous interview.

[141] Interview with cllr Shoots Naidoo, ANC South Central and metropolitan councillor, Durban, 13.03.1997.

[142] The ANC is often described as a 'broad church' composed of 'communists', 'liberals', 'pragmatists' and 'unionists'. Interview with cllr Nick Clelland, DP member of the exco of Inner West council and metropolitan councillor, Westville, 10.09.1997. Another Inner West local councillor proposes a slightly different version of the divisions inside the ANC caucus of the council: 'democrat', 'communists', 'unionists' and 'extremists' ("those who are pushing for africanisation"). Interview with cllr A. R. Mitchell, NP ward councillor, member of the exco of the Inner West council, Queensburgh, 06.06.1997.

[143] Kokstad is an example where it is not political parties as such which hamper the decision-making process but internal splits inside the same party (the ANC) over the issue of the incorporation of Kokstad in the Eastern Cape province. "According to Mayor Mlungise Nyembezi, the split means that 'every issue becomes a political issue' and councillors aligned to the two factors would vote on every other resolution according to their position on the border dispute." Interview with cllr M. Nyembezi, ANC mayor of Kokstad and member of the executive committee in the iNdlovu regional council, Kokstad, 21.02.1997.

In certain local councils, caucuses comprise councillors from different racial groups who belong to the party for very different reasons.[144] Sometimes the tensions are too important to be kept silent.[145] Even in places like Ulundi, which cannot be suspected of nurturing dissident political ideologies, the IFP caucus (which means the whole council) is suffering from internal dissensions. They are mainly due to the presence of 'old style politicians' such as Simon Conco, who are coming from the KwaZulu legislature and consider younger ones (who are not "party aparatchik") as dilettante: "you cannot make someone from the shop floor a politician or make him understand the mechanics of government."[146]

But on the whole, caucus meetings are giving a party line which is kept by the members and are preventing each councillor to express his/her own view on a question during the council meetings. The importance of this is recognised by most of the interviewees:

> *It is important to have parties because in a transition, they direct policies. If we did not have parties, we would swing in different directions. Inside the ANC, we have a lot of problems and we have to caucus often.*[147]

Political parties, because they inform councillors, provide them with technical and strategical guidance, introduce discipline among the members and try to identify common lines of action through debates. They could become a powerful tool for elaborating a global vision for the future of urban areas.

But unfortunately for the moment, there are problems which prevent caucus meetings from realising their full potential. If they give an opportunity for debates, they lack the necessary technical backing. The idea of a 'pre-caucus meeting' where councillors ask questions about the agendas so that the answers can be obtained by the relevant officials before the caucus meeting itself, has been the subject of experiment in the North Central local council. "We are trying to do this but some councillors do not come."[148] It is in any case rare that provincial MPs intervene during the caucus.[149] More importantly, some councillors complained during the interviews that they do not receive enough support from their party, that there is a lack of communication and a top-down approach.[150] Sometimes caucuses, especially when they are

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[144] For example the North Central local council's NP caucus is composed of 21 white but also Indian councillors.

[145] Cf. the racial vote on the rate rebate for Indian areas in the two Durban central councils, in this chapter.

[146] Interview with cllr Simon Conco, IFP exco member in the Ulundi council, and member of the exco of the Zululand regional council, Ulundi, 22.07.1997.

[147] Interview with cllr A. Shaikh, exco member of the Greytown TLC, Greytown, 11.09.1997.

[148] Interview with cllr Lydia Johnson, mayor North Central council, ANC PR councillor, Durban, 08.05.1997.

[149] Cf. chapter 8, pp.326-327.

[150] Interview with a North Central local councillor.

dominated by a few councillors or when they are directed by a provincial MP, are not fulfilling their training role but become a session where councillors are told what to do.[151]

A last solution to the problem of the creation of a local identity is to change the model of local government. This is relevant for the metropolitan areas and rural areas, where the question is about establishing a one-tier or two-tier structure. TLCs are also concerned by the problem of identity but the question is posed more in terms of urban form that in terms of model.

[151] Cf. chapter 8, pp.329-330.

2.3 - A different model for local government

2.3.1 - Urban form in TLCs

It is not sufficient, in order to create a local identity, to declare that formerly separated entities are now governed by a same political body and serviced by a common administration.[152] The boundaries and limits are inscribed in the minds and in the territory itself - what some call 'the urban form'.[153] The main solution which was designed in order to overcome the spatial fragmentation of the apartheid era is integrated planning. In 1990, Bernstein was already arguing for:

> ... *more compact, integrated, accessible and productive urban systems.*
>
> [New] *programmes should include, for example,*
>
> - *Inner-city development on a non-racial basis;*
> - *High density in-fill development;*
> - *Multi-purpose development corridors connecting previously segregated parts of the city.*[154]

The main tool which was designed to break apartheid boundaries is the Integrated Development Plans (IDPs). The Local Government Transition Act (Second Amendment) requires that local governments produce IDPs. They are plans for the short, medium and long term, which assess the current situation of each local authority and help the formulation of strategies and implementations of projects.

2.3.1.1 - A lack of ambition for the term 'integration'

In practice, the KwaZulu-Natal municipalities tackle the problem of integration with caution. Everyone agrees on the need to increase population densities in formerly white group areas, or on the need to reduce commuting distances for black workers, but these objectives are hard to achieve. Municipalities are not ready to promote low cost housing in vacant spaces in

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[152] Schlemmer and Stack note that "race segregation does not depend on statutory provisions alone" and observe that in the US, segregation has increased in many cities since 1962. Schlemmer L., Stack L., 'The elusive ideal. International experiences of desegregation", in Opening the Cities. Comparative Perspectives on Desegregation, Indicator SA Issue Focus, September 1990, p.15-16.

[153] "Local government needs to be transformed in order to fundamentally change the urban environment, to racially integrate our towns and cities." Ministry of Constitutional Development and Provincial Affairs and the White Paper political committee, South Africa's Local Government. A Discussion Document, Towards a White Paper on Local Government in South Africa, Pretoria, Government Publication, 1997, p.8.

[154] Bernstein A., McCarthy J., 'Opening the cities. Post group areas urban planning and management' in Opening the Cities, p.64.

city centres because of the prime value of this land.[155] In order to help the urban poor and working classes placed on the edges of the urban areas, at a relatively long distance from their place of employment, municipalities have adopted timid steps which mainly consist in opening enclosed territories (enclaves) by giving them easier access to urban facilities. For example in Inanda, the plan is to draw the 32 communities together into six precincts and integrate Inanda into the greater metropolitan area through road links.[156]

Spatial integration is slowly taking place, mainly through housing development on the former buffer zones separating racially homogeneous districts. For example in Eshowe, a housing project in the former buffer zone between the black township and the coloured and white areas will geographically integrate the different parts and give a physical meaning to the administrative entity. The KwaDukuza/Stanger TLC wants to bring all the areas into an operational area. Its IDP has identified the buffer zones where development can take place and the other strategy is to use the link roads as activity spines.[157] In Durban, one of metro's biggest housing developments is taking place on Westrich.[158] It falls on a former apartheid buffer strip between Ntuzuma's Richmond Farm and Newlands West. It is one of the metro's first steps towards changing the face of Durban's apartheid city by integrating communities previously separated.

But as Mabin points out, this is far from the idea of the 'city for all': "the one city discourse in South Africa did not suggest that township must become town, or vice versa, it did not threaten the identity of residents of either space in this way."[159] The definition of integration for local authorities is very different from the one given in the White Paper on Local Government. Indeed, neither councillors nor officials envisage the integration of:

> *... rural and urban areas, integrate poor and rich, black and white areas in towns and cities, and integrate different land uses rather than keeping them strictly separate.*[160]

Instead, the general policies implemented by local authorities tend to promote the idea of equitable cities and towns by fostering economic development in the townships. They ensure that vacant land in more economically advantageous areas is made suitable for development for residential and/or business use. They bring geographically closer the former white town and its black or/and Indian township(s). They also provide services, infrastructures and employment

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[155] One example is the piece of land called 'block AK' near the Greyville race course. Part of this land is vacant and could be earmarked for housing near the city centre but the municipality prefers to dedicate this land to offices.

[156] The Mercury, 09. 10.1997.

[157] Interview with cllr R. Naicker, Independent exco member of the KwaDukuza/Stanger TLC, Tongaat, 07.11.1997. The idea is to promote commercial activities along the roads.

[158] This project was agreed in July 1997. The Mercury, 24.07.1997.

[159] Mabin A., 'Negotiating the shape of metropolitan government for post-apartheid cities in South Africa', Villes et Developpement: Groupe inter-universitaire, Montreal, Cahier 1-96, 1996, p.21.

[160] Ministry of Constitutional Development, White Paper, p.153 (summary of the principles in chapter one of the Development Facilitation Act - DFA).

opportunities in the hope of creating a continuous urban environment and minimising the racial divide.

The limits of the definition of 'integration' are obvious in the Howick example. In order to integrate Mpophomeni (Howick's black township), officials suggested that a major community facility like a sports complex "provide an initial catalyst for the social and physical integration of the town."[161] This measure will induce an improvement in the facilities available in the township. But this has nothing to do with integrating the township and the white area. Integration is merely synonymous in this case with the provision of public facilities to black areas.

Racial segregation is entrenched in the urban form. When councillor Naicker from the KwaDukuza/Stanger TLC speaks about change,[162] he is rather optimistic but conscious of the challenges:

> *People have some difficulties thinking in terms of the 'TLC' and not their own areas. For example, Indians would say that Groutville is not Stanger, they still think according to the old boundaries... If you come to Stanger, you can think that nothing has changed on the ground* [after the creation of the new municipality]. *Change has to be translated on the ground. There is no transformation of the society. This will be slow, difficult, painful, but it is taking place through projects (housing, roads, lights, water). Black people feel the change.*

Besides, since the new councillors came into office, they had to face the fact that they only control a small portion of territory inside the boundaries of the new local authority.

2.3.1.2 - A difficult institutional context which does not favour integration

Due to the different legal status of the former separated entities, the integration of infrastructure, municipal staff and land into the assets of the new municipality is slow. These administrative problems which are only temporary, cast a shadow on the capacity of the councillors to immediately provide services and introduce visible changes in the areas where the needs are greatest.

Firstly, councillors are prevented from treating the different entities on the same level, by very different legislation and regulations. Councillors are still waiting for the moment when they will be able to "create a new city":

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[161] Interview of Mr Bridgerage, local official, reported in SWK Planning and development, Outline Strategies for the Growth and Development of the Midlands appendix one, September 1996, p.4.
[162] Interview with cllr R. Naicker, Independent exco member of the KwaDukuza/Stanger TLC, Tongaat, 07.11.1997.

Councillors are facing the Town Planning Act which applies different criteria for the different areas (for example in a black area, people can open a shop where they want without having to ask any permission but not in a white area). The purpose of the council is to create one planning, a "new city".[163]

Secondly, an institution with the status of a grade 9 local authority, the Development and Services Board (DSB) enjoys control over some regulated and development areas. Their number has decreased from 80 to 37 since 1994/1995[164] and the assets of the development/regulated areas had been transferred to the TLCs. But the employees associated with such areas are still employed by the DSB.

Thirdly, local authorities, two years after the local elections, have not yet integrated the staff employed by the former R293 townships. They are still paid by the province (who took over after the scrapping of the KwaZulu administration) and the staff is very reluctant to take any instructions from the council.[165] Their integration into the new administration is delayed because it can only occur after an Act of Parliament, due to a problem of pension fund transferability.[166] In the North Central local council for example, MEC Miller's department had advised in writing that the council had authority over the staff in the respective townships but the council states that the employees "still feel under the jurisdiction of and were paid by the province."[167] This means that people in the former KwaZulu territories, those who were the most deprived of public services, still have to deal with mostly untrained, inefficient and unaccountable employees.

Fourthly, all R293 townships fell under the Ingonyama Trust and municipalities can not levy taxes in these areas because they are the property of the trust. Property owners in the affected townships hold grants of deed as opposed to title deeds, because their land is "co-owned" by the trust's administrator, King Goodwill Zwelithini. Although the Amendment Act to the Ingonyama Trust Act makes provision for control of all land in urban areas in townships to be vested in local councils, and although the King has granted permission to local mayors to collect rates, the legal proclamation is still awaiting the signature of the state president.[168] In 1997 for example, Ulundi TLC whose total territory falls under the trust, did not have any assets of its own.[169] Ladysmith had not yet been able to incorporate eZakheni industrial area in April 1997,[170] despite the important revenue this would mean for the town.

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[163] Interview with cllr K. P. Chetty, ANC ward councillor of Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 21.01.1997.
[164] Natal Witness, 07.08.1997.
[165] Interview with Mike O'Meara, CEO of South Central and North Central local councils, Durban, 14.02.1997.
[166] Ibid.
[167] North Central local council, Minutes of the Exco, 21.01.1997.
[168] Khan F., Metropolitan Case Study as Input to Local Government Green Paper, p. 15.
[169] Interview with Mr C. F. A. Rademan, chief executive officer of the Ulundi TLC, 23.07.1997.
[170] Jan Coetzee, town secretary of the Ladysmith/Emnambithi TLC, 22.04.1997.

Because of the Ingonyama Trust Act, in 1997, R160 million-worth of projects were held up since 1996 in the two Durban Central councils.[171] However, it is the councillors who are blamed when there is no delivery: "At the moment we have only permission to do some development like roads and similar facilities, but we cannot do anything to the houses and people accuse us of being inefficient."[172] The council cannot maintain the houses because they belong to the province. As Freund points out, the Ingonyama Trust Act means that various aspects of the administration of most formerly black areas are under the control of the province.[173] This leads sometimes to accusations from the community about things "not changing" rapidly enough and that the municipality is still committed (through its 'old guard' officials) to only take care of the needs of the white population.

TLCs are suffering from a lack of ambition and legislative difficulties when it comes to integrating the former separate administrative entities. In the case of the metropolitan areas, the problem is more related to a problem of model than the urban form.

2.3.2 - A new model for the metropolitan areas

2.3.2.1 - The debate

One of the most controversial issues in the White Paper on Local Government is the question of the model for metropolitan areas. Two camps are in opposition to each other and the conflict can be read in terms of local vs. metropolitan identity.[174]

In the Green Paper on Local Government, solutions which emphasised the exclusive powers of local councils and which allowed only for a marginal input from the metropolitan level were mentioned but not considered seriously. They are:

> *... not 'true' models of metropolitan government, as executive powers in these types rest exclusively with the local, as opposed to metropolitan level... these types* [do not] *recognise the economic and social unity of the metropolitan area in their institutional form.*[175]

Instead, the two 'realistic' options proposed by the government were the retaining of the two-tier system or the establishment of a 'single city'.

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[171] The Mercury, 28.08.1997.

[172] Interview with cllr Lydia Johnson, mayor of the North Central council, ANC PR councillor, Durban, 08.05.1997.

[173] Freund W. M., The Changing Role of the Local State as a Factor in Economic Planning and Development, forthcoming, p.18.

[174] It is obviously simplistic to reduce the problem to this aspect. We are going to see that the issue has become a political one, the IFP fighting the "centralist tendencies of the ANC." (Cf. chapter 9, p.368). Advocates of the single city option argue that it is the only way to manage metropolitan areas because this is the only way of redistribution. The model would avoid slow pace of decision-making, massive duplication, declining service delivery and prevent the increase of power of wealthy suburbs.

[175] Ministry of Constitutional Development, Green Paper, p.42.

In the first option, different scenarios were possible:

- A weak metro option where both levels would exercise legislative, executive and administrative powers and functions;
- A co-ordinating metropolitan tier in which the metro would be allowed limited intervention at local level but whose main task would be co-ordination and financial redistribution;
- An integrating metropolitan tier in which the metro would have extended powers in order to "manage the metropolis as a single economic and social entity."[176]

The second option proposed the scrapping of local councils in favour of a single metropolitan political body controlling a single metropolitan administration.

When the White Paper on Local Government was released, the number of options had seriously diminished. The choices were only between:

- A metropolitan council with no sub-structures but with ward committees. Those would

  > ... *be area-based committees whose boundaries coincide with ward boundaries. Ward committees have no original powers and duties* [those are delegated by the metropolitan level such as determining local needs or advisory powers]... *They should be chaired by the ward councillor. Each metropolitan council must develop procedures and rules to govern the membership.*[177]

- A metropolitan council with sub-structures but whose powers would be devolved from the metropolitan council.

The 'Durban model' in which a fairly equal position was enjoyed by the metropolitan and local councils seemed to be out of question. A clear emphasis was put by the Ministry of Constitutional Development and Provincial Affairs (MCDPA) on the importance and even the pre-eminence of the metropolitan level. In either of these options, the local councils enjoyed a subordinate position comparing to the metropolitan level.

Finally, the Municipal Structures Bill proposes two options:

- a metropolitan council standing alone and taking all the decisions either through an executive committee or an executive mayor;
- a metropolitan council with areas committees, equivalent to the present local councils except that all their powers would be delegated by the metropolitan level.[178]

The ANC caucus of the Durban Metropolitan Council did not voice any official concern about the White Paper, despite its long-standing position on the retention of a two-tier model

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[176] Ibid., p.42-43.
[177] Ministry of Constitutional Development, White Paper, p.64-65.
[178] Ministry for Provincial Affairs and Constitutional Development, Local Government: Municipal Structures Bill, Pretoria, Government Gazette, Vol. 395, No. 18 914, 22 May 1998, Part 3.

for Durban.[179] Instead, cautious statements were issued after the release of the document. During a conference on local government legislation in Johannesburg, Durban Mayor Obed Mlaba said[180] that the new legislation must be flexible enough to allow a variety of models to be implemented. He declared that metro and local councils should be allowed to determine their own systems, within performance criteria set out by national government. Neither the Durban Council nor the Durban local councils criticised the establishment of area committees. In their submission to the Municipal Structures Bill,[181] they simply mention the necessity to consult with organised local government and the affected local authorities, when determining the number of area committees.

On the contrary, many negative reactions were voiced, mainly by the DP and the IFP.[182] These parties used the argument of the preservation of a 'local identity' to contest the scrapping of the local councils.

2.3.2.2 - The significance from the 'local identity' point of view

For most of the white ratepayers who refuse rates increases, social harmony would be enhanced if existing cultural/ethnic/religious/linguistic/racial communities were given political expression through the creation of small local councils demarcated to maximise homogeneity. On the contrary, large local councils would not provide adequate space for the expression of smaller communities' interests and may exacerbate social conflicts as the interests of some are perceived to be prioritised over others. The same logic is used by the NP, DP and the IFP, with the important exception that the two parties do not argue for the retention of the numerous and small local authorities of the previous system.[183] While the NP did not publicise too much its opposition to the government's position, the DP and the IFP reacted strongly against the 'big

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[179] The last meeting of the pre-interim Durban metropolitan council rejected a proposed draft legislation (drafted by a technical committee of the Major Urban Areas Association) on local government which made local councils subservient to an all powerful metro body. The project gave the metropolitan level the power to levy uniform rates, whereas in Durban, it is the councils that have power to levy rates with the metro receiving funds from the councils. The ANC and the IFP caucuses were united in the matter. See The Mercury, 20.06.1996; Business Day, 20.06.1996.

[180] The Mercury, 04.03.1998.

[181] Durban Metropolitan Council and Associated Local Councils, A Response to the Local Government : Municipal Structures Bill, 10 June 1998.

[182] The NP has not come strongly to the media on the subject. As some party documents published after the release of the White Paper show (National Party, The Official National Party Comment on White Paper on Local Government, Cape Town, NP, March 1998) and as cllr Pepler confirmed, the position of the NP nationally as well as in the metropolitan caucus are very close to the IFP ones. Telephonic interview with cllr Pepler, 17.06.1998.

[183] The DP, if not in favour of the previous WLA system, declared openly his preference for a system in which cross-subsidisation would be limited. DP metropolitan councillor Mark Lowe supported the "Durban system" and criticised the mega-city concept as an attempt to "centralise financial control and ignore the democratic principle that ratepayers should only pay for what they need and use." The Mercury, 12.03.1998.

brother' approach of the Green Paper on Local Government. MEC Miller pleaded passionately for the two-tier system because a single-city:

> *... would encompass every known form of social organisation from communally owned tribal settlement to first world skyscrapers in one amorphous mass. All sense of local identity and local community would be sacrificed to achieve colourless uniformity and conformity... The mega-city seeks to achieve 'domination and control' and denotes a 'unitary philosophy'... There is the false belief that under-serviced communities can best be uplifted by ever rising charges levied against those consumers who pay for services rendered.*[184]

In metropolitan areas, one cannot deny the strong need for financial redistribution and spatial planning and the necessity to take into account the whole functional region instead of being hampered by artificial political boundaries. Obviously nobody, except small extremist groups,[185] would argue for the retention of small administrative entities which would:

> *... allow for the perpetuation of fragmented and unequal development between parts of the metropolitan area* [and does not] *provide a sound basis for social justice.*[186]

However, the Municipal Structures Bill despite the denials of the MCDPA, does not seem to draw any difference between an extremist position which would retain apartheid divisions and fragmentations and an option whereby large local councils would enjoy a certain amount of autonomy. The ministry is treating and rejecting equally the parochialism of the former Kloof or Westville local authority and the call to retain the autonomy of the present Durban local councils. According to the ANC, keeping the local councils in their present form, would increase social conflict through entrenching a system of political representation based on existing race/class/cultural divides.[187] Instead, the ANC prefers the option of a 'single city'

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[184] The Mercury, 04.12.1997.

[185] According to Willmer from the URF - a group which many would label as 'extremist' - "the local elections brought more democracy to the black areas but less to the white, Indian and coloured areas because there are fewer councils, and they are bigger. Before we had small communities where everyone knew everyone, unpaid councillors were able to run a tight ship financially and with extreme accountability. With the PR system you cannot have community representation, it is the 'political caucus empire'. It is a regression in the white areas." (Interview with Brendan Willmer, chairman of the United Ratepayers Association, Durban, 15.05.1997).

[186] Ministry of Constitutional Development, Green Paper, p.42.

[187] "Given the social geography of our major cities, it is likely that forums small enough to facilitate direct citizen participation will reflect existing racial divisions in the city. If these forums are independent municipal councils, there is a danger that they will encourage race-based local politics". Ministry of Constitutional Development, White Paper, p.63.

(with no sub-structure) and hopes that neighbourhood committees (with no original powers nor functions) will provide recognition and expression to small cultural/ethnic communities.[188]

Considering that urban areas are de-racialised but not desegregated, the local councils could become a valuable institutional tool to break the divide which still persists spatially, or at least transfer the necessary funds so that 'advantaged' and 'disadvantaged' areas can be equalised. The MCDPA argues that this is the only realistic option, seeing that the present two-tier system in metropolitan areas has not really helped the redistribution from wealthy to poor areas and the construction of a common sense of belonging.[189] But was it not too early to decide on this point?

First, in the Durban case, McCarthy[190] argues that the increase in capital expenditure from R1102 million in 1996/97 to R1567 million in 1997/98 is associated with greater levels of commitment towards previously underdeveloped areas. The substructures, in turn, represent relatively small proportions of both capital and operating expenditure.

Secondly, a sense of belonging appears in councillors as well as officials' discourse. In 1997, the Inner West local councillors who sit also at the metropolitan level started caucusing according to political affiliation but also as a group coming from the same local council:

> *We were the first council to caucus as local council representatives at the metro level. One official goes through all the metro items and picks up what is of relevance for the Inner West.. Then we caucus on those matters. There is no binding effect for this caucus but that makes us aware so that we can report them to our political caucus.*[191]

Moreover, statements collected during the interviews indicate that councillors are beginning to believe in the possibility of sharing a sense of common citizenship despite the differences. The submission of the Durban local councils to the first draft of the White Paper (Discussion document) states that "a sense of place and a strong independent identity has begun to develop in the newly formed local council areas."[192] The content of some interviews is relevant:

> *I have always lived in Tongaat Beach and Umhlanga was foreign for us, we could not go to the beach there. The new council is bringing the*

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[188] The White Paper stated that "ward committees allow for maximum administrative flexibility, but ensure that diversity within the metropolitan community is given voice". Ministry of Constitutional Development, White Paper, p.xi.

[189] The White Paper notes that "generally, metropolitan residents have not identified with the new metropolitan local council boundaries". Ministry of Constitutional Development, White Paper, p.5.

[190] See chapter 4 in Sutcliffe M., Further Research into metropolitan government systems, Pretoria, Department of Constitutional Development, June 1998.

[191] Interview with cllr Nick Clelland, DP member of the exco of Inner West council and metropolitan councillor, Westville, 10.09.1997.

[192] Joint Councils of the Durban Metropolitan Area, Response to the Discussion Document, Local Government White Paper Process, May 1997, p.4.

people together, all the fears are going away, there is a good community spirit... South Africa is really a miracle.[193]

An official in the same council adds that:

People are very parochial and they still think in terms of Umhlanga, Verulam or Tongaat. The benefit of having become the North local council will only be felt in two or three years.[194]

This is not to say that these statements could not be made in reference to a Durban identity, instead of focusing on a Northern or Outer West local identity and that the interviewee would not feel the same about the "miracle" if he was in a metro without local councils. But the challenge of feeling a Durbanite would then be much greater in terms of identification. The challenge would be greater because citizens would have to identify with a broader geographical area than the local council. Due to the apartheid legacy, an inhabitant of Kloof or Mpumalanga would not feel a Durbanite, would not feel any link or would not share anything in common with a person living for example on the beach front. This has not only something to do with the distance, or the different styles of living, but also with the use of the space. People occupy the metropolitan space according to their needs (professional, leisure, shopping) and do not appropriate the whole of the area. They do not translate the administrative boundaries into patterns of living. Besides, as we have seen, some former WLAs have problems identifying with the local councils, let alone the metro. This study argues that the local councils are a tool which potentially can weave links between inhabitants from different suburbs without those links being too 'abstract'. If local councils are scrapped, Umlazi inhabitants (for example) will not have the opportunity to feel part of a broader geographic area and be interdependent with a neighbouring Indian or white suburb. The present situation where six local councils exist, offers this opportunity. The South Central local council is constituted by Glenwood and the Berea but also Chatsworth and Umlazi residents. They are governed politically by the same council and they depend on one another for the successes or failures of the sub-structure. Even if this situation is not entrenched in the minds of people, and even if they will always firstly feel inhabitants of their racially homogeneous neighbourhood, the local council gives them the opportunity to feel that the geographical proximity and socio-economic linkages between the 'suburbs' can translate into a political identity and a fiscal inter-dependence. With the establishment of a single metropolitan tier, the sharing of a common identity will be easier to reach in a way, because that would not undermine the neighbour identity. However, this process has nothing to do with the sharing of a common sense of belonging.

Unfortunately, the policy adopted by the ANC on metropolitan government is a clear statement that the party does not believe in the possibility of building a social consensus[195] over

[193] Interview with cllr L. Naidoo, ANC chairman of the exco of the North local council and ward councillor, Umhlanga, 23.10.1997.
[194] Interview with Mr Joseph E. David, CEO of the North local council, Umhlanga, 16.10.1997.

and above the differences between the communities. The party's insistence on the interests of the wider metropolitan community carries the danger of perpetuating the present strong expressions of difference.

2.3.3 - A new model for rural areas

In rural areas, the context is very different. The challenge there, is not so much to break entrenched racial local identities but to make the presence of the state felt in the rural areas so that rural dwellers through the regional council feel part of the broader 'New South Africa".

2.3.3.1 - New roles for the regional councils

In terms of making the presence of the state visible in rural areas, transforming regional councils into service providers would be the best solution but this is not practically possible. According to McIntosh:

> *Provincial and national government departments should shift away from direct delivery of services towards enabling local governments to become the direct suppliers of local services, and the co-ordinators of local development activities... It is therefore critical that community-based delivery systems that are being developed by provincial and national government departments should be built into emerging local government structures.*[196]

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[195] This social consensus is defined by Wooldridge as "a shared tolerance/understanding/belief regarding access to and ownership of the city, its uses (spatial, social and economic) and governance". Wooldridge D., 'Metropolitan Government', unpublished paper delivered at the Electoral Institute of South Africa's conference, The Local Government Conference, Johannesburg, 25-26 November 1997, p.8.
[196] McIntosh, Xaba, Draft Proposals, p.10.

To justify this shift, McIntosh argues that the constitution states that local government should be ultimately responsible for service delivery. Although it is obvious that one of the most important tasks for local government in rural areas is to co-ordinate the intervention of different service providers because it is the only body which has the political legitimacy to do so, it seems unrealistic to think of transforming regional councils into agencies catering for all the needs of rural communities. Both internationally and in South Africa, local government is more and more an 'enabler' than a provider. The important thing is not so much that it delivers itself, but that it ensures that criteria of quality, affordability etc., are respected in the best interests of the public. Moreover, it is impossible to see how the meagre resources of the regional councils could enable them to deliver more than promises. The only solution would be that national and provincial governments provide subsidies to regional councils for the provision of services. But finance and authority cannot be divorced from one another. Regional councils would become in this context nothing more than agencies for the two other spheres of government.

Regional councils raise few resources themselves and they are not structured to provide services. One would have to create an entirely new administration and integrate the technical capacity of national and provincial departments to the new structure. This seems unrealistic because of the resistance likely to be encountered in all the three spheres of government. The only solution is to give to the regional councils the task of co-ordinating the different development initiatives in the region. Rural dwellers will not be any better off when it comes to identifying what the provincial, national or regional government does exactly, but they will have an image of different spheres working together towards a common goal and that will be enough to make the presence of the state a positive reality. In rural areas, co-operative governance is one of the key to the introduction of the notion of citizenry and regional councils have a central role to play here.[197]

The other key issue which rural local government in KwaZulu-Natal has to address is its capacity to liaise and keep in touch with the rural communities. For urban dwellers, local government has a reality: it is the town hall where they can meet the administration; it is the services (and the bill) they receive. In rural areas, the visibility of regional councils and the sub-regions is still to be created.

[197] It takes more than the creation of 'Primary Rural Administrative Centres' (PRACs) advocated by McIntosh to promote local collaboration. According to this consultant, these centres would locate staff from all provincial and national departments involved in service provision. The 'one stop shop' would serve as a "natural locus for services." (McIntosh, Xaba, Draft Proposals, p.32). This study argues that the establishment of service providers' forums is more efficient. See chapter 9, pp.359-361.

The regional council as an institution has no reality, except for the projects it funds. For the moment, projects do not give the opportunity to civil society to organise itself and to enter into a partnership with the regional council.[198] Communication between councillors and communities is weak and elected representatives are often by-passed by other spheres of government or alternatively, enter in conflict with development committees because of a lack of trust between the two. One can hope that the future decentralised offices which will be set up in each of the sub-regions and which will employ community liaison officers, will improve this state of affair. But the best way to promote local democracy is obviously to give an opportunity to communities to express their concern directly to their representatives not only to the officials. It is about creating new means of communication and consultation, adapted to the rural areas.[199]

2.3.3.2 - A two-tier system in rural areas?

As with the metropolitan areas, different views can be heard on the question of whether or not a two-tier system is preferable in rural areas. The issue which interests us in this chapter is whether or not this will improve the presence of the state in rural areas. In other words, would a second tier help local government to retain control over the local development process? Would it help to develop consultation and participation?

On the question of the control over development, it seems that the present system is working as efficiently in KwaZulu-Natal as in the provinces which have adopted a two-tier system. Regional councils have been divided into sub-regions since the beginning of 1997. Under this scheme, ten representatives from each specific sub-region of the regional council, meet every two months. This has helped to designate some councillors as responsible for particular areas. But this cannot be equated to a two-tier system. In KwaZulu-Natal, regional councillors are "deployed" into those sub-regional councils. The "primary tier" (sub-regions) here, is a 'creature' of the regional council. This is a deconcentrated rather than a decentralised system,[200] in which sub-regional councillors are delegated to sit at that level. However, despite

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[198] See chapter 8, pp.298-302 and 310-314.

[199] There is a need to recognise that the way one consults and liaises with communities in rural areas is fundamentally different compared to urban areas. The Green Paper mentions the systems of public notice for loans, investments, budget... as a way to communicate councils' proposals or decisions. See Ministry of Constitutional Development, Green Paper, p.64. However, this might not be sufficient in urban areas themselves, let alone areas where people cannot read. A commitment to investing in information dissemination is crucial.

[200] Deconcentrated bodies are not autonomous but implement policies defined by the structure which created them. They are representation offices without any own power. Decentralised bodies on the contrary can claim to have inherent powers. Their decisions do not emanate from a 'centre' but from themselves. The lack of autonomy of the sub-regions was noticed by regional councillors who complained that "sub-regions would not play any significant role, they will be Mickey Mouse", that "the functions should not only be to act as a link between the exco and other councillors and between exco and the relevant community, but defined as local government functions". (iNdlovu sub-regional committee 1's prioritisation meeting, Wartburg, 05.03.1997. The researcher was present).

the large areas the sub-regions have to cover and despite the lack of specific constituency for councillors, this arrangement is beginning to have an impact on the co-ordination of service delivery.

Internally, the sub-committees play a central role in the prioritisation process for the funding of projects. They review the applications and make recommendations to the exco. Externally, all the regional councils have used this level to improve their collaboration with other service providers. In iLembe, a letter was sent to all the relevant 'role players', inviting them to attend the sub-committees' meetings in order to help plan the development of the areas. Comprehensive information about the aim of the sub-regional committees was provided to the potential partners.[201] In uThungulu, representatives from the DWAF, Mhlatuze Water, the Department of Health, sit at the sub-regional level.[202] In Zululand, each of the three sub-regions have co-opted some outside members.[203] All the sub-regions are the target of a planning exercise, which has to be coherent with the planning done at regional and provincial level.

The delimitation of the sub-regions' boundaries was done by the planning and survey section of the Department of Local Government and Housing. The methodology applied was more scientific than political. Magisterial district boundaries have been followed where possible and the criteria used for the delimitation were:

- Physical characteristics;
- Population distribution;
- Existing boundaries;
- Cross-subsidisation capacity (boundaries which ensure that poor areas are under control of a sub-region that has the capacity and resource base to finance and implement reconstruction);
- Community of interests of residents;
- Taking political affiliation in account.[204]

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[201] iLembe regional council, Letter to "relevant role players" about their representation on the standing committees, July 1997. According to an iLembe official, "all the relevant service providers and departments are invited to the sub-regional meetings. They are all working in the area without co-ordination. They are allowed to be at the standing committees and this helps the councillors to understand what they are doing. It is also good for the provincial officials because they get to know the priorities defined by the people." Interview with Mr S. V. Zondi, Administrative officer, iLembe regional council, Durban, 29.08.1997.

[202] Interview with Mr A. M. B. Creighton, chief executive officer of the uThungulu regional council, Richards Bay, 18.071997.

[203] For example, the Zululand sub-region 1 (Abaqulusi sub-committee), co-opted Mhlatuze Water, the Department of Local Government and Housing, the DWAF, the Department of Transport and the Department of Health Zululand regional council, Agenda of the Council, 12.06.1997.

[204] Explanation of the planners made during the iNdlovu exco meeting, 19.11.1996.

This is very different from the situation in the other provinces where two tiers were elected by the rural communities.[205] Whether they are called transitional rural councils (TRCs) with, in theory, the same powers as TLCs or transitional representative councils (TRepCs) with no administration nor budget, the rural primary tier in other provinces is essentially political. Because there is no capacity at all, it is essentially a political empty shell.[206] This is a situation which can undermine the institution itself. In KwaZulu-Natal, because the sub-regions are big enough to become a framework for meaningful planning and because there is no question over which level is in charge of what function, the sub-regions have the potential for becoming a useful tool in promoting coherent local development in rural areas, and thus ensuring a positive presence of the state.

CONCLUSION

South Africa is a divided society characterised by a plurality of well-defined social groups structured by religious, linguistic, cultural, racial and ethnic cleavages. People tend to define themselves in terms of the groups to which they belong, rather than the larger political community in which they live. In divided societies there is a lack of common agreement on social identity[207] and few people see themselves as members of the defined political community. Social diversity may result in a reduced legitimacy of the state in the eyes of its citizens. One of the consequences of this lack of legitimacy is that citizens who identify with a sub-community, are less likely to accept each other as equal citizens with equal right and status. Another consequence is that people's political preferences and demands will be formulated according to narrowly defined group interests and not to greater common goals. The problem is how to claim common loyalties from all the citizens.

This question is valid at national, but also at local level. Local government is a microcosm where all the dramas of South Africa are taking place, but with an extraordinary sense of urgency as well as intensity.

As we have already stated, it is at the local level that the consequences of apartheid policies were the more visible and it is at that level that the co-existence of different groups is likely to create the most tension, because the rights of being a citizen of the new South Africa translate here into concrete duties and especially financial duties.

But the creation of a common sense of belonging is one of the conditions for the solving of the rates boycott problem. A councillor confirms that:

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[205] See annexe X which provides the geographical delimitations of the district councils and rural municipalities in the nine South African provinces.

[206] This paragraph draws heavily on an unpublished paper: Polunic J., Motala S., 'Reinventing rural local government in South Africa: current status, constraints and options', Paper delivered during the Local Government Conference, organised by the Electoral Institute of South Africa, 25-26 November 1997.

[207] Social identity is defined as the part of an individual's self-concept which derives from his/her knowledge of his/her membership in a social group (or groups) together with the value and emotional significance attached to that membership. See Mattes, Social Versus Civic Identity, p.2.

The challenge in the future is to encourage a sense of pride within the community, whereby they accept the city as their own. It will have a major influence on the payment of services[208]

Two years after the local elections, common values have not yet had the time to emerge in the new South Africa. Instead, different co-existing systems are being tolerated in the TLCs and the urban form is still the mirror of divided communities. In the metropolitan areas, the model promoted in the White Paper does not seem to give any chance to a solution which would promote diversity as a means to build a common local identity. In rural areas, where the presence of the State was light, local governments have the daunting task of building a partnership with communities while other spheres of government are by-passing them.

Councillors are pressurised by communities, officials, other tiers of government and they have to be seen as delivering and transforming the lives of their constituency.[209] But by not trying to draw people together, mainly through promoting a real and ambitious process of integration and by drawing all segments of the communities into the decision-making process, one can endanger the future viability of the local authorities.

We have talked here of ideals of nation-building - or rather patriotism - and common sense of belonging. But the danger is also very practical and tangible. If the ratepayers do not identify themselves with the new administrative entity, they are likely to stop paying.

The key role local government has to play in:

> ... *building ... a sense of common purpose to find local solutions for increased sustainability*[210] and *building coalitions of common interest... enhance the capacity of diverse groups of people to act together around shared goals*[211]

The uncomfortable reality in both rural and urban areas is that little progress has been made towards this idealistic goal.

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[208] Inner West local council, Minutes the Special Council, 30.08.1996.

[209] According to cllr Maphalala, "in exco, we are talking about delivery and we are making decisions but it is a very long process and the people do not understand it. Their main question is 'when?'. When you say that something will be built here and it takes sometimes one year, the people think in the meantime that you lied to them." (Interview with cllr M. J. Maphalala, IFP ward councillor, member of the exco of the North Central local council, Durban, 11.061997).

[210] Ministry of Constitutional Development, White Paper, p.21.

[211] Ibid., p.81.

Chapter 8
Is democracy promoted through the existence of local government?

> *Democracy cannot be viewed as something of a ready-to-wear variety... Beware of urging us on to the river if there is nothing to drink.*[1]

All the policy documents dealing with local government stress the democratising role of institutions in the local sphere. Chapter 7 of the constitution states that the objects of local government are, *inter alia,* to:

- Provide democratic and accountable government for local communities;[2]
- Encourage the involvement of communities and community organisations in the matters of local government.[3]

One of the most important tasks of the municipalities, according to the White Paper on Local Government is the promotion of good relationships between citizens and government - what has come to be called 'governance'[4] - through participation of the 'community'. In a foreword to the White Paper, the chairperson of the white paper political committee, Pravin Gordhan, puts this goal into historical perspective:

> *... the policies of the white paper are the result of a long process and an even longer history. A history of a strong civic movement, a history of popular participation, and the development of principles which will* [sic] *underpin local government structures through the years of struggle.*[5]

Because individuals organised themselves during the 1980s, to bring down the apartheid regime, it is widely believed that South Africans should continue today in 'participating'. Because central and provincial governments are too remote from people and because local government directly affects their day-to-day life, the assumption is that the local sphere is the main channel through which popular participation can be exercised.

As one commentator puts it:

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[1] Gurirag, T-B, Opening statement at the Conference of the National Democratic Institute (NDI) for International Affairs held in Windhoek, 1992, quoted in Schlemmer L., Hirschfeld I. (eds.), Founding Democracy and the New South African Voter, Pretoria, Human Sciences Research Council, 1994, p.46.
[2] Constitution of the Republic of South Africa, Chapter 7, Section 152 (1) (a).
[3] Ibid., Section 152 (1) (e).
[4] Ministry of Constitutional Development and Provincial Affairs and the White Paper political committee, South Africa's Local Government, A Discussion Document, Towards a White Paper on Local Government in South Africa, Pretoria, Government Printer, 1997, p.9.
[5] Ministry of Constitutional Development and Provincial Affairs and the White Paper Political Committee, White Paper on Local Government, Pretoria, Government Printer, March 1998, p.viii

The old culture of local government served as basis from which new TLCs had to approach the new challenge of not only serving much larger communities, but also taking responsibility for the development of the community on the basis of a new relationship with the community. The oversimplification that the transition of local government is no more than removing the racial restrictions, is absolutely false.[6]

Popular participation enables citizens to become 'involved', not only through a vote every few years, but through the shaping of new policies, the identification of development projects etc. It is true that citizens' participation in public affairs is important and efforts to this end are not misplaced. But this is not the only element of local democracy and emphasising an oversimplified version of it to the exclusion of all others can be counter-productive, indeed dishonest and dangerous.

Democracy as we have defined it in this study, also involves acknowledging the legitimacy of the new councillors and respecting their representivity. If on one hand, policy makers are vague and promote without guidelines 'people's participation' and on the other hand leave councillors locked in wrangles with officials, other spheres of government and even between themselves[7], representative democracy becomes a confused and problematic terrain. The problem of defining who is supposed to participate and under what conditions also has to be addressed. The new South Africa is committed to 'community participation' and rejects the elitist approach of exclusive participation by people who are knowledgeable on certain matters. But the convenience of the term 'community' obscures important conceptual issues of representation.

1 - Participative democracy

1.1 - Importance of participation

1.1.1 - Participation: a key word

Since the beginning of the 1990s, a quasi-mythical civil society, the new guardian of the public good, has earned an enormous weight of expectations.[8] The call for an increased partnership between government and the 'community', is based on the conviction that "the public should be active participants in the development process rather than passive recipients

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[6] Prof. Louw A., intervention during a conference organised by the National Interim Consultative Body for organised local government, Local Government in the New Constitution, Conference hosted by the Free State Local Government Association, Bloemfontein, 5-6 August 1996. The researcher was present.
[7] See the problem of accountability between exco members and 'ordinary councillors' below.
[8] Swilling writes that "civil society, and not the state, should be the guardian of the public good". Swilling M., 'Socialism, democracy, and civil society', Theoria, 79, p.78.

of government programmes."[9] At the launch of SALGA in Durban in November 1996, ANC MP Salie Manie stressed that the purpose of local government is not only to provide services but also to democratise the society: "local government should promote participation and build the capacity of the communities... councillors should not think that they will deliver alone."[10] This break with the past intends to contribute to the *affirmation* of citizenship rights for the whole people rather than its mere symbolic *possession*. Participation of the general public, of the ordinary people[11] is celebrated. Andrew Boraine notes that:

> *... within organisations, the emphasis is on mass participation of ordinary people, rather than on professional politicians, intellectuals or those who are 'educated'. This is related to a strong vision of a future society that relies on the collective involvement of all, rather than on the inspired leadership of a few.*[12]

In this way, populist, rather than representative conceptions of democracy are celebrated.

In South Africa, public participation in local government is not only a means by which individuals may protect their rights as consumers of public goods and services; it is not just the result of a right of consultation; in fact, it involves the full concept of people sharing the process of policy-making and service provision. Through public participation, the new South Africa is said to be able to go smoothly through its transitional period:

> *Problems regarding development, active participation in decision-making, the representativness, accountability and transparency of social, political and economic structures, a watchdog role on the state and government, responding to demands and expectations of communities which the state cannot or will not meet ... , are all seen as potentially solvable in and through the creation and existence of a vibrant civil society.*[13]

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[9] Ministry for the Public Service and Administration, White Paper on the Transformation of the Public Service, Pretoria, Government Gazette, Vol. 365, No. 16 838, 24 November 1995, p.57.

[10] Intervention of Salie Manie during the launch of the South African Local Government Association, Durban, 21-23 November 1996.

[11] This is contrary to the elitist approach proposed, for example, by Weber whereby in order to avoid having one voice of opinion (the officials' one), their advice should be supplemented "by interest groups, normally in the form of advisory bodies recruited from among the economically and socially most influential strata". Weber M., Economy and Society, An Outline of Interpretative Sociology, New York, Bedminster Press, 1968, Vol. III, p.997.

[12] Boraine A., 'Strategies of the Democratic movement' in Fourie S., (ed.) Strategies for Change, Proceedings of the national conference on Strategies for Change organised and presented by the Institute for a Democratic Alternative for South Africa, held in Johannesburg on 25-26 November 1988, IDASA, Cape Town, 1989, p.32. Andrew Boraine, at that time a member of civil society (he was director of IDASA) was to become director general in the Department of Local Government.

[13] Reitzes M., 'Civil Society, the Public Sphere and the State. Reflexions on Classical and Contemporary Discourses', in Theoria, No. 83/84, October 1994, p.105.

Local authorities, because they encompass a defined and in general rather small geographical area, are considered to be a privileged instrument for greater community participation.[14] The legislation encourages civil society to organise itself and calls for local government to constantly liaise with it.[15] Decentralisation is a means to fulfil a broadened and ambitious definition of 'democracy', whereby participation is not confined to periodic elections but corresponds to an active process enabling everyone to contribute to the reconstruction and development of the country.[16]

1.1.2 - Participation: a means to fight apathy

Public involvement through local government is expected to help create citizens and not mere subjects of a central power. This idea is shared in many countries. In England during the 1980s, local authorities were offering new opportunities for public participation through consultative area committees, neighbourhood forums and citizens' co-optation onto council committees, as well as administrative decentralisation of service delivery. In addition, the 'public service orientation' debate challenged the enclosed organisation of local authorities and argued for greater responsiveness to the public as customers and as citizens.[17] In the English context, this move corresponded to a reaction against the prevalent apathy of the population and followed a period in which central government relentlessly curbed the autonomy of local authorities.

In South Africa too, local authorities have to fight a general indifference, at least from the white population, when it comes to participation in the public sphere. Dahl's observation is probably valid for all developed democracies. He states that, when the interests of the *homo civicus* are threatened, he:

> *... may set out deliberately to use the resources at his disposal in order to influence the actions of governments. But when the danger passes,*

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[14] The idea that local government brings "government to the grass roots" is wide-spread. See for example Sabela T., Reddy P. S., 'The philosophy of local government in developing countries with particular reference to South Africa', in Reddy P. S. (ed.), Readings in Local Government Management and Development. A Southern African Perspective, Cape Town, Juta & Co. Ltd, 1996, pp.3-15.

[15] For example:

- The Development Facilitation Act (Act No. 67 of 1995) emphasises on the establishment of community organisations and development forums;
- The Local Government Transition Act, 1996 and section 152 (1) (e) of the constitution stipulate that local government should encourage the involvement of communities and community organisations in the matters of local government;
- According to the Local Government Transition Act, 1996, section 10 G (g), municipalities shall annually report to and receive comments from their respective communities regarding the objectives set in their respective integrated development plans.

[16] "While regulation remains an important municipal function, it must be supplemented with leadership, encouragement, practical support and resources for community action." Ministry of Constitutional Development, White Paper, p.20.

[17] On the opening-out of local authorities in England, see Stoker G., The Politics of Local Government, 1988, Macmillan Education, London, pp.116-120.

> homo civicus *may usually be counted on to revert to his normal preoccupation with non-partisan strategies for attaining his primary goals.* Homo civicus *is not, by nature, a political animal.*[18]

In Durban at the beginning of the 1970s, Purcell noted that the council meeting which mobilised the largest number of people was about an increase in rates and that "barely 100 people attended this meeting although the issue affected tens of thousands throughout the city."[19] He added that:

> ... *ratepayers' associations have little influence and did little to mobilise citizens politically. Most associations ...* [are] *most successful in gaining citizens support when they confine themselves to neighbourhood issues.*[20]

Twenty-five years later, the great majority of the A ward councillors who were interviewed, complained about public indifference towards local government matters. Some argue that people are not aware of the possibilities offered by the council to participate,[21] but most of them point to wide-spread apathy in most of the white as well as Indian areas.[22]

In the white areas, "people are happy to let councillors decide and no one ever attends the council or exco meetings."[23] When councillors initiate some move in order to consult their constituencies, very few respond. A Dolphin Coast councillor wrote a letter to his ward after one year in office asking if people wanted to set up an informal ward committee in order that he could report on the development of the area. He received only one response.[24] This lack of involvement even makes some councillors worry about their legitimacy. A Port Shepstone councillor asked during a workshop, how was he supposed to measure his public support "when 20 or 30 people attend your ward meetings."[25]

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[18] Dahl R. A., Who Governs? Democracy and Power in an American City, New Haven and London, Yale University Press, 1979, p225.

[19] Purcell J. F. H., Durban, South Africa: Local Politics in a Plural Society, Ph.D., Los Angeles, University of California, 1974, p.266.

[20] Ibid., p.273.

[21] Interview with cllr P. Reid, DP ward councillor of the Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 21.01.1997.

[22] Only two councillors working in black areas acknowledged during the interviews having problems in mobilising their constituency. Cllr Felgate in Ulundi stated that "I do my best. People are apathetic and they only move if something affects them... The problem is that we do not know what to do to attract people to meetings." (Interview with cllr S. Felgate, IFP exco member in the Ulundi council, and member of the Zululand regional council, Ulundi, 22.07.1997.) Whether she is not trusted as much as the other councillors or whether all the councillors are facing this problem because people are rather well-off in terms of services and are not so 'hungry for information', is difficult to know. In Mandeni, the mayor stated that people were also reluctant to attend meetings in black areas and explained the fact by the political violence: "they think that they are still going to political meetings". (Interview with cllr Sam Zwane, mayor of the Mandeni TLC, ANC, Mandeni, 14.07.1997).

[23] Interview with cllr S. Burrows, DP member of the South Central local council, 14.02.1997.

[24] Interview with cllr A. Horton, Independent chairman of the Dolphin Coast exco and ward councillor, Ballito, 22.10.1997.

[25] Trevor Hodgson, Port Shepstone councillor. He intervened during the workshop organised by the Department of Local Government and Housing, Green Paper on Local Government, ICC, Durban, 28-29.10.1997. The researcher was present.

However, if twenty-five years ago, rate issues did not succeed in mobilising more than 100 people in Durban, today the level of organisation is increasing in white areas because of the threat of rates increases to equalise service provision between poor and wealthy areas. In Blythedale Beach (a white component of the KwaDukuza TLC):

> *... the ratepayers association is growing in strength because they see that the municipality puts a lot of stress on disadvantaged communities and that they have to organise if they want to be heard.*[26]

In the Indian areas, people are not easily mobilised either, except when the meeting deals with geographically very localised concerns, such as the installation of a traffic light or a speed hump. The territory covered by a ward is often too big an area for people to feel concerned:

> *... people would not come to major meetings but would come to cell meetings because they would concern them directly. They are held in street corner because it is more visible especially in summer and that generates interest. On the contrary, a ward meeting does not mobilise anyone. Moreover, if a meeting is held in a street, women are more present*[27].

The reason often quoted for this lack of mobilisation in the Indian areas is the few needs of the Indian community when it comes to services in certain wards:

> *Personally, I have not yet organised community meetings. The problem is that people will only turn up if there is a catastrophe, if something terrible happens. They do not need really anything.*[28]

But what is unique to the South African situation, is that government is not only trying to fight a general apathy of its (mainly white) population. It has to give for the first time the opportunity and the desire to (black) people who have been denied this right, to participate in the shaping of the decisions that will directly influence their lives.

1.1.3 - Local government is expected to increase popular participation

The local sphere is expected to introduce the notion of participation to black areas where the right to political self-expression has been denied. The notion of citizenship stresses not only the duty to share the burdens of government but also the right to participate. Community participation is a way of making people feel that they have a vested interest in the system.

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[26] Interview with cllr R. Naicker, Independent exco member of the KwaDukuza/Stanger TLC, Tongaat, 07.11.1997.

[27] Ibid. This was confirmed by Phoenix councillor G. Mari who stated that councillors organise in Phoenix "street meetings rather than formal ones because otherwise people do not come." Cllr G. Mari, NP ward councillor, exco member of the North Central local council, Durban, 11.06.1997.

[28] Interview with cllr D. M. Vahed, Alliance of Independent, elected on PR, former mayor of Estcourt, Estcourt, 07.08.1997

In theory at least, involvement builds the citizens' capacity. They are given an opportunity to foster the development of their physical environment and are able to:

- Gain understanding of the procedures and structures;
- Facilitate consensus on priorities and ownership of project.[29]

An ANC document called The State and Social Transformation[30] considers 'participation' as one of the most important means which can "empower the people to be the real custodians of the process of social and economic transformation":

> *The empowerment of the people to participate in the process of governance, expressed in the concepts of a people-centred society and people-driven processes of transformation, indicates the centrality of the concept of popular and participatory democracy to the democratic movement's understanding of the functioning of a democratic state. It shows the commitment of this movement to the proclamation in the Freedom Charter that "The People Shall Govern!". It is the process of the people becoming their own governors...*[31]

In order to motivate the citizenry at large to participate in the 'transformation of the country', several instruments are used by the new municipalities in urban and rural areas.

1.2 - Instruments of participation

1.2.1 - Integrated development plan (IDP)[32]

Through the popular participation which it is supposed to involve and through the policies it advocates, the IDP serves as a "basis for engagement between local government and the citizenry at the local level, and with various stakeholders and interest groups."[33]

In KwaZulu-Natal, all local authorities have engaged (or are engaging) in this exercise[34] with varying local interpretations and refinements. In Eshowe, the TLC held public meetings about the plan where:

> *.. inputs from the community are made about their needs. We have a town planning consultant to facilitate the process. The state and*

[29] Ministry in the Office of the President and the Department of National Housing, Municipal Infrastructure Investment Framework, 12 June 1995, p.31.
[30] ANC, The State and Social Transformation, Unpublished, November 1996.
[31] Ibid., p.5.
[32] For some details about the IDPs, see chapter 7, pp.274-276.
[33] ANC, The State and Social Transformation, p.27.
[34] The elaboration of IDPs are subsidised by the provincial Department of Local Government and Housing.

provincial departments, NGOs, taxi associations etc. are part of the process.[35]

In the Northern local council of the Durban metropolitan area, the process is more elaborate. The drafting of the IDP was a nine-month process (from April until December 1997)[36]:

> *The council has a Joint Steering Committee (JSC) composed of consultants, senior officials and councillors. It is the decision-making body. People from outside participate through:*
>
> - *Some five geographic groups (people representing certain specific areas);*
> - *Some eight affinity groups (interest groups such as business, labour, youth, senior citizens, wildlife society...).*[37]
>
> *They form an advisory group which meets every two months (for the leaders) and every three months ("for everyone").... What is important is when the consultants are finished, we will still proceed with the consultation* [it is not clear however how]... [38]

Despite this elaborate organisation, the quality of the participation leaves much to be desired. According to Sarah Braude,[39] official in the North local council Planning Department, the geographical groups were not really successful in promoting the citizens' participation. One of the reasons was that in many informal settlements, development forums are not well established or there is no "link between the municipality and the residents".[40] On the other hand, affinity groups such as sports, environment, business, or education were more attended. The perspective for the municipality is, in the future, to allow those groups to continue working because the IDP would be reviewed every year but also because they are going to be consulted on specific projects. However, Ms. Braude acknowledged that performance criteria would have to be set up in the near future, if one wants the exercise to be meaningful.

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[35] Interview with Mr T. S. Williams, town secretary, Eshowe TLC, Eshowe, 15.07.1997.

[36] Coastal Weekly, 11.07.1997 (Coastal Weekly is a local newspaper covering the areas north of central Durban).

[37] Each affinity or geographic group consists of six volunteers who are expected to commit time to become acquainted with the issues and to generate their own recommendations for development. Northglen News, 13.06.1997 (Northglen News is a local newspaper covering the areas north of central Durban).

[38] Interview with Mr Joseph E. David, CEO of the North local council, Umhlanga, 16.10.1997.

[39] Interview with Sarah Braude, North local council Planning Department, 17.06.1998 (telephonic interview).

[40] Ibid.

1.2.2 - The participatory budget

The passing of the municipal budget each year is the main opportunity to contest the issue of rates. But increasingly, it gives also the opportunity for local councils to consult the citizens about municipal expenditures.

For the passing of the first budget of the new council (1996/1997), public participation was negligible[41] but so was the participation of the local councillors.[42] Budgets were voted in haste just after the local elections (August 1996) and most of the documents had been drafted by the officials before the new councils were voted in. But all the interviewees mentioned the special efforts made to involve the communities in the 1997/98 and especially the 1998/99 budgets. The Mandeni town clerk stated[43] that:

> *... for 1997/98, participation was not very high. But it was still a big difference comparing to 1996/97 because in the capital budget, we have some interest groups' inputs. For 1998/99, we will start the budgeting process earlier so that people who have identified specific needs can participate.*

In the TLC, a budget work group for 1997/98 was appointed. It was composed of councillors who could co-opt representatives of CBOs to "positively contribute to the process of budget preparation."[44] Once the first draft of the budget is approved, a meeting is called where CBOs and other interest groups are given an opportunity of commenting and making suggestions.[45] The same process is applied in Empangeni[46] and in the Outer West local council.[47] Ladysmith also takes the matter very seriously:

> *We spent R10,000 just for advertisements in the newspapers for the budget. We had nine meetings on Saturdays and Sundays at venues suitable for the communities and we used thousands of flyers. The attendance at some of the meetings was 2,000, but in the more established areas, we had three people. We sent a full set of senior officials in those meetings and we had a good attendance from*

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[41] In his 1996/1997 budget speech, the Outer West mayor acknowledged that "we wanted community consultation to arrive at this budget but that was far from ideal". (Outer West local council, Minutes of the Council, 30.09.1996).

[42] The councillors' participation to the first budget was limited with the notable exception of 'progressive' local councils such as the Inner West. In his 1996/97 budget speech, the chairman of the exco D. Naidoo mentioned:

- "Major shifts in priorities compared to the past";
- "Consultation with 30 CBOs".

(Inner West local council, Minutes of the Special Council, 30.08.1996).

[43] Interview with Mr Press, town clerk of Mandeni TLC, Mandeni, 14.07.1997.

[44] Mandeni transitional local council, Exco Reports, February 1997.

[45] Ibid.

[46] Interview with cllr D. J. B. Moffatt, mayor of Empangeni, Independent, Empangeni, 17.07.1997.

[47] Khan F., Metropolitan Case Study as Input to Local Government Green Paper. The Case of Durban, Durban, unpublished, 1997, p. 18.

> *councillors* [at least the relevant ward councillor was there] *from both political parties. This has had an input in the budget but on the other hand, retarded the process by a month... We started with R41 million of capital requirement for the budget before the consultation process began and we ended with R57 million on a five-year programme. Some projects that were budgeted for the second or third year were brought forward to this year.*[48]

For its 1997/98 budget, the Inner West council conducted a public survey to get people involved. The council distributed 40,000 pamphlets calling for submissions on how ratepayers' money should be spent.[49] The council decided to:

- Establish a budget forum including recognised ratepayers' and community organisations;
- Promote ward meetings held by councillors during the second week of May, particularly in developing communities where the budget was discussed in an attempt to encourage participation;
- Arrange press coverage and air time on Radio Zulu and East Coast Radio;
- Organise public meetings in Kloof, Gillitts, Hillcrest and Waterfall.[50]

IDPs and participatory budgets are valuable tools in urban areas where the citizens can organise themselves geographically or defend specific interests and can also relate to a ward councillor. But in rural areas, they are more difficult to apply because of the weakness of civil society.

1.2.3 - Development committees in rural areas

The absence of demarcated wards makes it difficult for rural councillors to relate to a specific constituency. As a result, organised forms of civil society are badly needed. One mechanism which has been used to help local communities to engage in development processes is the use of development committees. According to McIntosh:

> *Development committees should be established as a mechanism to represent broad interests at local level, to provide a link between local government and traditional authorities, and to assist local governments to prioritise development needs, and mobilise community support for projects.*[51]

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[48] Interview with D. J. Vermeulen, chief executive officer of Ladysmith/Emnambithi TLC, Ladysmith, 20.08.1997.
[49] Daily News, 18.04.1997.
[50] Outer West local council, Minutes of the Council, 30.04.1997.
[51] McIntosh A., Xaba T., Draft Proposals Towards an Integrated Rural Development Policy for KwaZulu-Natal, Durban, non published, August 1997, p.12.

Those committees can be found at the geographical level of tribal authorities and regional authorities. In general, they are composed of the tribal council and people appointed by the inKosi, generally because they are skilled in some field or another.[52] The inKosi chairs the meetings. Sometimes the process is formal (with a written constitution), sometimes not. The aim is to identify community needs (most of the regional councils' projects applications are filled by them) and if funds are granted, they are supposed to implement or at least maintain the project. However, development committees are not always linked/controlled by the inKosi. McIntosh notes that some have failed "because traditional leaders have not been informed about local development activities. The result has been suspicion between the committees and traditional authorities."[53]

Traditional leaders are a necessary partner for every initiative in rural areas, especially the ones aiming at organising civil society. They are often criticised as being the main stumbling blocks when it comes to promote popular participation in rural areas, because this would threaten their power and legitimacy.[54] Strengthening the powers and capacity of amaKosi might increase corrupt and authoritarian practices. But on the other hand, it is very hard to build a participatory culture in rural areas from below, because of the opposition of chiefs and of the "absence of a political culture imbued with principles of representation, accountability and reporting back."[55] Chief Maphumulo (from the Mpumalanga area near Durban), interviewed by McIntosh in 1989 recognises that:

> *... people are used to having committees appointed for them by the chief. This is consistent with the way ndunas and councillors are selected and appointed...* [Democratisation] *would be a slow process because of the absence of a democratic culture and the fact that people are used to having the chief do things for them...*[56]

It seems that NGOs' initiatives are likely to lead nowhere - or lead to open confrontation - if at least, amaKosi do not give their agreement to the exercise. The need to respect the powers in place in rural areas is understood by the few NGOs which work in the field of rural development in KwaZulu-Natal. The association for rural advancement (AFRA) or the regional consultative forum (RCF), even if they promote the participation of communities to the policies defined for rural areas, try to establish 'bridges' which could ease the relationship between councillors, amaKosi and communities The RCF's "Sizobhukula"[57] project trains community representatives in basic accountability procedures and about local government

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[52] McIntosh A., 'Rethinking chieftaincy and the future of rural local government: a preliminary investigation', Transformation 13, 1990, p.38.
[53] McIntosh, Xaba, Draft Proposals, p.12.
[54] As McIntosh points out, most commentators consider participation as "achieving power... in terms of access to, and control of, the resources necessary to protect livelihood...". McIntosh, 'Rethinking chieftaincy', p.28.
[55] Ibid.
[56] Ibid., p.39.
[57] Zulu for "Let us roll up our sleeves and get to work".

issues. Over 500 workshops were organised in 1996 and 1997 and 4,000 community representatives trained.[58] Another of RCF programmes called "Siyimbumba"[59] tries to convey the message that civil society and councillors should be working together in the interest of promoting development. It aims at building the capacity of rural communities to engage with local government structures and helps both sides understand the problems of the other.[60] The RCF organised four two-day workshops between the middle of March and the beginning of May 1997 which targeted iNdlovu (one workshop), uThukela and uMzinyathi (one workshop), iLembe and Ugu (one workshop) and uThungulu and Zululand (one workshop) regional councils. During the first day, the communities discussed the problems they experienced with the council and came up with concrete proposals. The second day was dedicated to discussions between councillors and communities about those proposals. Councillors had the opportunity to present the functioning of the regional council, the development priorities and the problems they experienced.[61]

It is only organisations which do not take into account the rural context of KwaZulu-Natal, and which adopt a simplistic and very amateurish approach, who consider that the solution to the promotion of participation is to create *ex nihilo*, pre-defined groupings of citizens in ideal structures.

For example the National Economic Development and Labour Council (NEDLAC), [62] very remote from the complexity and multiplicity of the local situations, obviously did not find the existence of development committees sufficient to promote democracy in rural areas.

> *The NEDLAC Development Chamber has undertaken to formulate a framework for the establishment of a single, inclusive and representative* [sic] *structure at local level, and a set of national guidelines.*[63].

For the community to express its needs, NEDLAC proposed to the KwaZulu-Natal regional councils the creation of two local development structures:

> *The first one would be at community level, representing a single disadvantaged community with community development facilitators employed within a local development office part of the local authority. At the local government level, another development structure would*

[58] Regional Consultative Forum, Annual Report 1996-1997, Durban, RCF, p.10.
[59] Zulu for "We are one".
[60] Regional Consultative Forum, Annual Report 1996-1997, p.12.
[61] Interview with S. Motala, responsible for the Siyimbumba workshops at the Regional Consultative Forum, Durban, 11.06.1997.
[62] NEDLAC's aim is to facilitate social partnership in order to promote sustainable economic growth. NEDLAC emphasised a lot on the role of the communities in this process. See Mulqueeny J., 'Developmental local government and community participation', in Kwanaloga and the School of Public Policy and Development Management University of Durban Westville, Module 1 - The Environment of Local Government, Durban, Kwanaloga, June 1998, pp.5-9.
[63] Ibid., p. 9.

determine the local needs, prioritise and bring together key role-players in order to identify and initiate programmes.[64]

However, this proposal was not even considered by the regional councils. This is not surprising considering the way the proposal was put forward to the councillors (a mere letter), the fact that regional representatives consider that they are responsible for the direct liaison with the communities and the lack of NEDLAC's legitimacy in putting such proposal forward.

1.2.4 - Political parties as an instrument of participation?

> *The modern, developed polity differs from the traditional, developed polity in the nature of its political institutions. The institutions of the traditional polity need only structure the participation of a small segment of society. The institutions of a modern polity must organise the participation of the mass of the population... The distinctive institution of the modern polity, consequently, is the political party...* [Political parties' functions are] *to organise participation, to aggregate interests, to serve as the link between social forces and the government.*[65]

Rural and urban local councils are both dominated by party politicians. But Huntington's belief that "the principal means for organising expansion of participation are political parties"[66] does not seem to be applicable to KwaZulu-Natal in the 1990s. The presence of parties during the elections "has galvanised people"[67], has helped to mobilise them. But in the day-to-day running of the local authority, parties are in fact hampering participation.

In the first place, the political affiliation of councillors tends to transform what should be ward meetings in political meetings. An Estcourt councillor stated that "the only meetings with the communities in Wembezi are political. They are full of rhetoric and no information is distilled."[68] This prevents accountability since councillors do not use ward meetings to establish a 'working relationship' with their constituents but a 'political one'. Unfortunately, this has as much to do with the desire to maintain the party presence in the ward than with the lack of personal capacity of councillors to go beyond their platform speakers' role.[69]

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[64] Letter from NEDLAC, dated August 96. The document was presented in the Zululand regional council, Agenda of the Exco, 26.09.1996.

[65] Huntington S. P., Political Order in Changing Societies, New Haven and London, Yale University Press, 1968, p.89 and 91.

[66] Ibid., p.398.

[67] Interview with cllr A. Shaikh, exco member of the Greytown TLC, Greytown, 11.09.1997.

[68] Interview with cllr D. M. Vahed, Alliance of Independent, elected on PR, former mayor of Estcourt, Estcourt, 07.08.1997.

[69] Councillors in KwaZulu-Natal do not have a well-developed capacity to provide information about what is happening in the council during community meetings. This hinders the development of participative and representative democracy. They know little about the issues being debated: "We need to

Secondly, participatory democracy is difficult to put in place in areas where political tension between the ANC and the IFP is still high. The fact that a councillor is identified with one party prevents him from representing his entire ward in this tense and highly-charged atmosphere. An IDASA's project manager in charge of the local government programme in KwaZulu-Natal stated that:

> ... *local government can activate development but it needs to stay in contact with the community. In KwaZulu-Natal, it is still difficult because of the political situation. One cannot say that the community and the council as a whole have a good relationship because most of the councillors are politically aligned and the community sees them as serving only their voters and not the entire TLC. To be an ANC councillor means that you do not serve the IFP voters.*[70]

This is the case, for example, in a Pietermaritzburg/Msunduzi TLC ward. It was contested by the IFP and the ANC. The latter won comfortably (2,800 votes) against the IFP (230). Due to the highly territorialised politics of the province, the IFP electorate is easily identifiable. Its small number ensures that there is no major clash with the ANC councillor but it seems that the IFP voters prefer to channel their concerns to the council via the IFP candidate who was defeated in the ward but who obtained a seat (the only one for the IFP) in the council through his election on the PR list. The IFP councillor[71] considers himself as:

> ... *the eye through which my "community"* [which means the IFP electors] *can observe the council. I report to them. I am the unofficial representative of one section of the ward* [which is split into two ANC sections and one IFP].

This 'unofficial role' seems to have been recognised by the municipality itself which asked him to attend one of the meetings concerning 'his' ward.

In the case of TLCs where political intolerance still rules, some officials see the role of the administration as a neutral agent which can channel the concerns of the segment of the population which feels politically excluded. In Ladysmith, the CEO explains:

> *You must remember that if* [the ANC councillors] *have won 80% of their ward, there is still 20% who are not ANC and they want to communicate directly with the administration. That is what we are here for. As long as we catch all the needs, as long as the net is large enough, problems can be worked out.*[72](emphasis added)

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improve the situation because councillors cannot explain the decisions taken in council." Interview with cllr B. B. Biyela, mayor of Richards Bay TLC, IFP, Richards Bay, 16.07.1997.

[70] Mpilo Makywane, in charge of the KwaZulu-Natal programme on local government in IDASA, Durban, 20.01.1997.

[71] Interview with cllr Khwela, IFP exco councillor in Pietermaritzburg and rural councillor in iNdlovu RC, Pietermaritzburg, 29.01.1997.

[72] Interview with D. J. Vermeulen, chief executive officer of Ladysmith/Emnambithi TLC, Ladysmith, 20.08.1997.

However, we have seen[73] the lack of trust the administration enjoys among the population of the newly integrated areas. The most obvious solution, which would consist of using the officials as a way to promote participation, is not realistic in the short term.

1.3 - Beyond consultation: interaction

Participation is often equated simply with the process of asking communities about their needs and then trying to accommodate them. But participation has to be informed, otherwise demands and hopes are disproportionate with the financial and technical capacity of the local authority. That is why municipal communication is essential. Moreover, participation is more than the addition of consultation and communication. It is also about giving the opportunity to citizens to interact directly with their public representatives, during mass meetings or individually.

1.3.1 - Tools of communication

1.3.1.1 - Written material

The biggest local authorities have the financial means to employ local officials to communicate on the council's activities. The Durban Central councils even benefit from the services of a Communication Department which sends a publication with the electricity accounts and informs the population about some of the decisions being taken in the council.[74] Municipalities also communicate through the weekly local newspapers. In the North local council, the decisions of the council appear in a newsletter hand-delivered in the mail box, through the local newspaper and an annual report.[75] In the Inner West, the council voted for a 'citizen newsletter' in order to "create a civic identity". It is regarded as the official publication of the local council and distributed with the consolidated billing or door-to-door.[76]

However, newsletters are not a very efficient way to communicate. The first problem is distribution. In Pietermaritzburg, before the elections, a newsletter was sent monthly with the Eskom account (one page in three languages, giving information mainly about the social, cultural, sportive events in the city). The new council planned to produce a bigger newsletter (financed by advertisements) but:

> *... only 33,000 bills are sent and the newly elected councillors do not want it to be only received by half of the population. The problem is disseminating the information to Edendale* [Pietermaritzburg black

[73] Cf. chapter 5, p.163 and chapter 6, pp.217-218.
[74] Interview with Mike O'Meara, CEO of South Central and North Central local councils, Durban, 14.02.1997.
[75] Interview with Mr Joseph E. David, CEO of the North local council, Umhlanga, 16.10.1997.
[76] Inner West local council, Agenda of the Exco, 03.09.1996.

township]. *Even when the municipal staff places council publications in community halls, no one picks them up.*[77]

The content of the newsletter is also often disappointing. Because of the limited space available (in general two A4 sheets) and the necessity to translate everything in two or three languages, the amount of information is very limited. Moreover, a balance has to be struck between information on the local authority's social events and more technical issues like the budget and the rates. The result is often a compilation of material ranging from the 'recipe of the month'[78] to the local Masakhane campaign, without the civic matters being contextualised and the decisions properly justified.

The problem is much worse in the rural areas. Nearly all regional councils have started a newsletter in English, Afrikaans and Zulu[79] but distribution is confined mainly to the councillors themselves and institutions working in rural areas.

1.3.1.2 - Council meetings

Council meetings themselves disseminate information. With the anti-secrecy clause in the constitution,[80] more and more councils have adopted an open policy towards the public. In Ladysmith, it is only since the beginning of 1997, that agendas are distributed to the public and council and exco meetings are opened.[81] However, this does not mean that the meetings are well attended or are effective means of communication. Few people know that the public is allowed to attend them. In any case, the main business of such meetings is the ratification of the different committees' proposals by the full council. For the most part, what the public hears, is the name of the item and the answer "approved" muttered by a few councillors. There are more debates at exco meetings but these are political debates in which the public can learn little at the technical level. The issues are really workshopped in the standing committees and caucus meetings. Given that the latter are closed to the public, the only place where communities can benefit from real information on municipal issues are the standing committees. But with a few exceptions (in Ladysmith and Eshowe[82]), TLCs do not allow the public to intervene and make inputs. Access to standing committees is for information

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[77] Interview with Cynthia Harvey, Communication Department of the Pietermaritzburg/Msunduzi TLC, 07.11.1996.

[78] See Ezasekhaya (Zulu for 'Home Affairs' [sic]), the Ulundi TLC newsletter, annexe XXIII.

[79] See in annexe XXIV, the newsletter of the Zululand regional council, 'Iphupho Lomntwana'.

[80] "A municipal council must conduct its business in an open manner, and may close its sittings, or those of its committees, only when it is reasonable to do so having regard to the nature of the business being transacted". Constitution of the Republic of South Africa, chapter 7, 160(7).

[81] Ladysmith transitional local council, Minutes of the Council, 26.02.1997

[82] In Ladysmith, the public is allowed to interact with the councillors during the standing committees and people are allowed to express opinions on technical proposals. In Eshowe, in sub-committees dealing with roads, industrial promotion, museum, civic awards, environment etc. the council is represented as well as members of the public who have an interest in the matter. Interview with Mr T. S. Williams, town secretary, Eshowe TLC, Eshowe, 15.07.1997.

gathering only.[83] The only solution for citizens, is to have access to councillors through public meetings organised by councillors (either on a individual basis or during mass meetings).

1.3.2 - Meetings with councillors in urban areas

1.3.2.1 - Ward meetings

Ward councillors are in the front line when it comes to organising regular meetings to report on the council's activities. Councillors are also supposed to collect ideas and complaints at such meetings and transmit them to the council. In general, meetings take place when a particular decision has to be communicated:

> *This month, the ANC councillors decided to hold a meeting in each ward about the rates and to do a report about what they have been doing this last six months.*[84]

In general, ward meetings are not the main channel through which communication and participation is taking place. The interviews confirmed that very few ward or community meetings are being initiated by the councillors and when they take place, little information is exchanged. Officials as well as councillors (when they did not avoid the questions on the frequency of public meetings during the interviews, or make very vague statements about the issue) admitted that more efforts should be dedicated to improve the quality and the quantity of the community meetings. With most of the interviewees, it was necessary to read between the lines[85], but the mayor of the North Central local council was unusually frank:

> *You can find that some councillors have not convened meetings for six months and people are complaining, saying that they do not even know who their councillor is, that they have never seen his face. They only convene meetings when there is a crisis. There is no report back.*[86]

In metropolitan areas, the Municipal Structure Bill is proposing the establishment of ward committees, which would institutionalise interactions between the ward councillors and the

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[83] In the Inner West, a proposal from the ANC tried to overcome this problem. The caucus asked for an amendment of the rules so that delegations could address council at the instance of the chairperson. Inner West local council, Minutes of the Council, 30.04.1997.

[84] Interview with cllr K. P. Chetty, ANC ward councillor of Pietermaritzburg TLC, Pietermaritzburg, 21.01.1997.

[85] Some statements are indirectly enlightening on the lack of information exchanged in the meetings: "we still need to improve the communication with the communities. People think that we can do anything and they do not realise what issues we are dealing with." Interview with cllr S. D. S. Vilakazi, mayor of Ladysmith/Emnambithi TLC, ANC PR councillor, Ladysmith, 21.08.1997.

[86] Interview with cllr Lydia Johnson, mayor North Central council, ANC PR councillor, Durban, 08.05.1997.

communities. The object of a ward committee "is to enhance participatory democracy in local government."[87] However, two major problems can be foreseen.

Firstly, this committee would have an advisory role and would have powers and duties only if delegated by the metropolitan council. This means that on the one hand, a kind of direct democracy is created, whereby people have a say in matters affecting their areas but on the other hand, the metropolitan council is free to consider the recommendations or not and even to forbid a ward committee to deal with an issue.

Secondly, the piece of legislation states that the committee is composed of the ward councillor as the chair and "10 persons residing in the ward and elected at a public meeting convened for that purpose by the council and held in the ward".[88] The image of the ancient Greek democracy springs to mind here but, one has to remember that only the wealthy residents and those who had time and knowledge to dedicate to the 'polis' participated to this system. For such a body to be legitimate, all the segments of the population must be aware of its existence but also of its limited scope of action. Otherwise, people might not understand why their recommendations have not been taken into account. The Durban metropolitan and local councils seems aware of the danger of setting up such structures. In their response to the Bill, they state that "the establishment of ward committees must be decided by the Metropolitan Council and should not be mandatory" and that "the Metro council should determine the reporting lines from the ward committees to the council and its committees."[89]

1.3.2.2 - Consultation of organs of civil society

Ward meetings are not the only way councillors and communities can interact and evidence of their paucity is not, on its own, proof that local democracy is not working. Local councillors can also resort to existing organs of civil society in their ward in order to stay in touch with citizens' concerns.

In white wards, the main channel of consultation between councillors and civil society is the ratepayers' association - if it has not become politicised and is openly opposing the councillor's legitimacy. In Sherwood (North Central local council) for example, councillor Pepler attends every ratepayers' association meeting and does not organise ward meetings himself.[90] In the newly integrated areas, the situation is more complex.

We have seen that one of the way civil society organises is through development forums and that most of the councillors feel threatened by them. However, forums have found a 'niche' which is less likely to encroach on councillors' functions. They present themselves

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[87] Ministry for Provincial Affairs and Constitutional Development, Local Government: Municipal Structures Bill, Pretoria, Government Gazette, Vol. 395, No. 18 914, 22 May 1998, section 60.
[88] Ibid., section 61.
[89] Durban Metropolitan Council and Associated Local Councils, A Response to the Local Government : Municipal Structures Bill, 10 June 1998, p.5.
[90] Interview with cllr Pepler, NP ward councillor, North Central local council, Durban, 15.05.1997.

more and more as the link between the 'community' and local government. The Durban functional regional development forum, which includes 103 organisations, positions itself as a facilitator in assisting local and metropolitan councils to liaise with civil society around development policies, programmes and plans. In order to do so, it requested funds from the metropolitan council's 1996/1997 budget, claiming that:

> *... with the democratically elected local government, the function of assisting transitional authorities in taking development decisions has fallen away... The role now is to facilitate the implementation of development projects, and act as an opinion seeker, communication and resource unit and advisor. The forum is not part, or duplicate of local government.* [91]

Development forums have thus identified functions that are clearly different from those of local governments. Local authorities have had to try to set up clear policy to regulate their relations with development forums. At a meeting held on 26 September 1996, the South Central local council considered an item entitled "Local government assistance to development forums: current practices, its contribution to sound governance and a suggested approach" and the exco adopted the following criteria for funding:

- The need to acknowledge that provision of resources is at the discretion of council;
- The requirement of a corresponding contribution by the community;
- The establishment of a clear line of accountability;
- A constitution or a trust document being democratically approved;
- The need to ensure that such forums are inclusive and representative and practice democracy and transparency;
- The free participation of local councillors in the forums' meetings, in particular ward councillors.[92]

This is encouraging because these rules are facilitating the relationship between civil society and local authorities. It is important that councillors do not consider that they, alone, are representative of the needs of their wards simply by the fact that they are elected. It is also necessary for organs of civil society to stop contesting the legitimacy of the local councillors and acting as a counter-power. By stating clearly that the local authority is the legitimate and accountable body when it comes to decision-making and by ensuring that forums are operating in the open and are not 'hijacked' by a small group to advance its own agendas, the relationships between local government and civil society are less likely to be marked with suspicion.

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[91] Metropolitan council, Agenda of the Exco, 04.11.1996.
[92] South Central local council, Agenda of the Exco, 20.02.1997.

1.3.2.3 - Face to face meetings

Face to face meetings also take place, sometimes in an informal manner in the councillors' homes, at social gatherings (churches in particular) or in the street. Some local authorities have given attention to the fact that councillors need specific facilities to meet their constituency. In the Mandeni TLC, consulting rooms were made available in Mandini (white part of the TLC), Sundumbili [black area] and Tugela [Indian area].[93] In the Ladysmith/Emnambithi TLC, the use of municipal decentralised offices in eZhakeni and Steadville for community liaison purposes was approved on an *ad hoc* basis.[94] But it is the Inner West local council in Durban which has put the greatest emphasis on the identification of office facilities for councillors in order to foster community communication.[95] The council agreed that:

- No political party should be provided with separate office accommodation;
- A common office should be provided for all councillors in the different constituencies;
- Administration entities should be providing furniture and equipment;
- Some community buildings would be repaired to ensure that councillors can use those facilities.[96]

By contrast, the issue has not been considered a priority by some other Durban local councils. According to the Outer West CEO, old municipal buildings in the formerly separated administrative entities will be used to provide some administrative services (such as payment points) but "councillors never asked for offices... they are not involved in the day to day running of the town [sic]. Councillors see their role differently from the Inner West."[97] In the North Central council, when councillors asked for allocation of office space within community halls, the officials' answer was negative. The Director of the Recreation Department wrote to the council that:

> *... these motives are laudable but.. the community halls will shortly have a contingent of permanent staff who will require office space... It is suggested that councillors wishing to address their constituents, hire the hall on an* ad hoc *basis at the promulgated tariffs* [sic] *or lease space permanently in privately owned buildings within their respective wards.*[98]

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[93] Mandeni transitional local council, Minutes of the Council, 08.04.1997.
[94] Ladysmith transitional local council, Minutes of the Council, 04.12.1996
[95] The issue was first debated just after the elections. See Inner West local council, Minutes of the Exco, 22.07.1996.
[96] Inner West local council, Minutes of the Exco, 20.08.1996. The offices assigned to councillors are located in Pinetown; Queensburgh; Westville; Shallcross; Reservoir Hills; Clermont; KwaDengezi; Dassenhoek; Mariannridge; St Wendolins; Klaarwater; Tshelimnyama and KwaDabeka. Inner West local council, Agenda of the Exco, 22.10.1996.
[97] Interview with G. Strydom, CEO of the Outer West local council, Kloof, 04.06.1997.
[98] North Central local council, Agenda of the Council, 03.12.1996.

This attitude is typical of officials who do not realise the importance of councillors being available to and easily reachable by their constituency. The tendency is too often to complain about the lack of commitment of local councillors in terms of accountability and responsiveness but it is important that proper means be given to them to fulfil their duties. This is one of the factors that limits the possibilities of participative democracy. However, the extent of this problem of facilities in urban areas is much less significant than the structural problems faced by regional councillors.

2 - The limits of participative democracy in KwaZulu-Natal

2.1 - Rural local government not conducive to participation

The facts that the provision of services is demand-driven (according to the RDP strategy) and that people are expected to lobby regional councils[99] are in contradiction with the remoteness of rural local government and the low-level capacity for organisation in rural communities.[100]

The first problem which prevents meaningful participation in rural areas is the size of the councillors' 'constituencies'. Even if parties were careful in setting up their list for the elections, so that their councillors would more or less cover the entire regional councils' area,[101]

> *Regional councils are too big and the councillors have no means to make an impact because meetings are infrequent and unmanageably*

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[99] Munro and Barnes quoted the Rural Development Strategy which states that rural communities "must mandate their local and district councils to demand their fair of funding for capacity building". Munro W., Barnes J., 'Dilemmas of rural local government in KwaZulu-Natal', Indicator SA, Vol. 14 (3), Spring 1997, p. 76.

[100] The only example of an institutional channel which is able to spread information about the regional councils' activities in rural areas is the farmers' associations. The councillors representing levy payers on the regional councils did not have to divide the local authority into constituencies. They report only to the farmers' association at the level of the magisterial district (interview with cllr B. V. Aitken, representative of levy payers in the exco of the Zululand regional council, Melmoth, 24.07.1997). In uThungulu, levy payers' representatives use the same strategy. (Interview with cllr de Lange, representative of the levy payers in the uThungulu regional council exco, Eshowe, 15.07.1997).

[101] For example, in uThukela and uMzinyathi regional councils, most of the tribal areas are represented in the IFP caucus. This makes it easier to create groups of councillors responsible for different areas in the council. (Interview with Cassie Rautenbach, chief executive officer of the uThukela regional council of Ladysmith 27.09.1996). In uThungulu, the names of the IFP candidates were drawn from the seven regional authorities. (Interview with cllr de Lange, representative of the levy payers in the uThungulu regional council exco, Eshowe, 15.07.1997). For the ANC, this strategy was rendered impossible by the small number of ANC councillors elected. "The IFP made itself some informal constituencies but it is very difficult for the ANC. They did not organise themselves like this and they do not have enough representatives. They have to cover a big area and 'wander around'." Interview with cllr T. Ralfe, IFP exco member of the uThukela regional council, Estcourt, 29.10.1996.

large... they cannot deal with details. This raises the question of accountability.[102]

This is particularly difficult for representatives of the ANC who, even if they are in the minority, are supposed to cover the entire regional councils area (or at last the places which are not no-go areas for them).[103]

In order to make it easier for councillors to liaise with the rural communities, regional councils were divided into several sub-regions with a decentralised office in each of them. Ten councillors were nominated to sit in each sub-regional council. Since the adoption of sub-regions by the councils[104], meetings have been taking place at the sub-regional level on different topics. This has helped involve more councillors in the decision-making process[105] but unfortunately has not promoted popular participation. The standing orders do not allow the public to speak during those meetings. In addition, the long distances which rural dwellers have to travel (even to the sub-regional office), the lack of information about when and where the meetings are taking place and the impossibility of raising an issue which is not on the agenda, stand in the way of public participation.[106]

The second problem is the fact that the regional councils' *modus operandi* is not conducive to participation. The rural communities are not given the opportunity to have an impact on the policies. Many stakeholders complain of inadequate feed-back from the regional councils. For example, NGOs working in the field of rural development are very critical of the councillors, claiming that they are not known by their communities and that they do not convene meetings.[107] Even regional council officials are not happy with the consultation process:

... there is a gap between councillors and community. Some people reject councillors... Why are we talking about community based projects when we do not involve them?[108]

However, it would be unfair to put the blame only on councillors for the lack of consultation. The regional councillors are served by an administration which has not yet transformed. This is the third problem.

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[102] Valli Moosa's speech during a workshop organised by the Department of Local Government and Housing, Green Paper on Local Government, ICC, Durban, 28-29 October 1997.

[103] According to an ANC regional councillor "we had the JSB and there is no difference between the JSB and the regional council. It is only the name which changed because the structure is still the same. I would like to see changes towards sustainable development: the boundaries are too vast and there is no ward like in the urban areas. I do not know where my boundaries are. One is expected to travel long distances to talk to people." Interview with Bantu "Selbi" Makhanya, iLembe ANC exco councillor, chief of the ANC caucus, Durban, 10.09.1997.

[104] See annexe XXV for an example of sub-regional delimitations: the uMzinyathi regional council.

[105] Cf. below the conflict between 'ordinary' and exco councillors in regional councils.

[106] Informal interview with several regional councillors. By contrast, in England, some councils introduced a public question time into their agendas. This idea was first applied by the Bracknell council in 1974. See Gyford J., Citizens, Consumers and Councils, London, MacMillan, 1991, p.94.

[107] Interview of Thabo Manyathi, rural local government facilitator, Association for rural advancement, (AFRA), Pietermaritzburg, 20.02.1997.

[108] Anonymous interviews with some regional councils officials.

The different stages of the decision-making process reflect a top-down approach. As an iLembe regional councillor, describes it: decisions are taken in exco meetings are communicated to the 'ordinary' (non exco) councillors, who are in turn expected to call for development committee meetings, and then community meetings. "They discuss the matters and everything is transmitted again to the exco. It is the community which gives us the guidelines, they are the boss."[109] This statement is questionable because it is hard to see how community meetings can influence a decision already taken by the exco.

In terms of administrative transformation, the ministry for Public Service acknowledges that:

> *... the GNU is committed to transforming the state to an enabling agency which serves and empowers all the people... structured opportunities must be provided to involve civil society in the formulation, implementation and monitoring of government policies and programmes at all levels, national, provincial and local.*[110]

The White Paper on Local Government is very critical about the extent of the institutional transformation of local government:

> *Many administrations are still organised in much the same way as before, and most have not made significant progress with respect to transforming service delivery systems.*"[111] The document adds that *"local government has been democratised, but the local government system is still structured to meet the demands of the previous era. A fundamental transformation is required*[112]

The main problem in KwaZulu-Natal for regional councillors is that they inherited a structure which was not conceived to promote participation. The rural institutions have scarcely changed since the time of JSBs. Development is highly contingent upon the establishment of a sound development-oriented institution and the JSBs, products of an apartheid institutional environment, were largely "inefficient, not transparent, unaccountable and not adaptable." [113] Some officials openly complain about the lack of change:

> *I am fighting for a department of community liaison because people from the technical department have to liaise with the community and they do*

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[109] Interview with cllr J. Luthuli, exco member of the iLembe regional council (IFP) and deputy-chairman of the Ndwedwe sub-regional council, Ndwedwe, 06.11.1997.
[110] Ministry for the Public Service and Administration, White Paper, p.15.
[111] Ministry of Constitutional Development, White Paper, p.8.
[112] Ibid., p.16.
[113] Morris M., Barnes J., KwaZulu Natal's Rural Institutional Environment: its Impact on Local Service Delivery, Land and Agricultural Policy Centre, Working Paper 49, August 1996, p.14.

not know how to do it... The administrative organisation does not change.[114]

For the disenfranchised groups, it is vital to have access to development resources and a preferential representation will not suffice. The problem in rural areas - and to a lesser extent in urban areas - is the weakness of institutions of civil society and one of the solutions is the provision of training and education by the local administration.

In theory, one of the new roles of the regional administration is the strengthening of organs of civil society:

> *Development committees should be supported by community facilitation services located within local government. Facilitation services should include grassroots organisers...* [who] *should function as generalists, training and organising communities in the conceptualisation, identification, and management of projects in consultation with provincial departments and local government.*[115]

Regional councils should employ technicians who provide services but also 'organisers' in order to create a fertile ground for sustainability of the projects. This is the case especially in rural areas where local authorities need to be able to rely on organised local bodies.[116] An iNdlovu regional councillor proposed that officials "help the people to be organised so that the development could be sustainable."[117] This is a crucial aspect which cannot be properly managed because the emphasis is only laid on the technical aspects. A regional council official declared that the technical department is not suitable to train the community to take over the projects. It can only deal with the technical part and after that, "the community does not maintain the infrastructure and the whole process is useless."[118]

The iNdlovu regional council seems to be one exception is this bleak picture. It has begun to develop a capacity building programme for community development committees/forums in order to improve their level of participation in the decision-making process.[119] The programme entails training on management, budgeting, bookkeeping, communication. It is too early to evaluate its impact.

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[114] Interview with Mr Sipho Magwaza, Assistant-Director, Department of Management and Administrative Services, uThungulu regional council, Richards Bay, 18.07.1997.

[115] McIntosh, Xaba, Draft Proposals, p.13. However, it would be dangerous to consider civil society as only a source of identification and management of projects. It is necessary to couple these roles with one of lobby and advocacy about governmental policies. Promoting these functions of civil society is one of the NGOs' tasks.

[116] See chapter 9, pp.389-391.

[117] Interview with Jutam Mayaka, elected as a Development Organisation member (Zibambeleni), deputy-chairman of the sub-region 1 of the iNdlovu regional council, Wartburg, 05.03.1997.

[118] The same observation was made by the consultant in charge of writing a report on the Zululand regional council for the White Paper committee. The document noted that the "training of local people regarding the construction of dams has been a success. However, there is a lack of appropriate training to manage the infrastructure which is likely to affect the sustainability of the programmes." Study done for the White Paper committee on the Zululand regional council, unpublished.

[119] See iNdlovu regional council, Agenda of the Exco, 27.08.1997.

In the other regional councils, a link with the rural population is ensured by the officials, but only when it comes to the identification of development projects in rural areas. No local authorities in KwaZulu-Natal have entered the process of facilitating participation by previously voiceless groups. There is no creation of space in which organisations, which would enable them to be heard, may emerge.[120]

However, this aspect of the work of the RCs should be considered as one of the most important. If the administration handled the problem of popular participation correctly and succeeded in establishing links and channels of communication with civil society, this would avoid posing the problem of the one versus two tiers of government in rural areas.

Because of logistical and financial constraints, it is not realistic to envisage setting up smaller local authorities closer to the rural population. Other provinces have tried to establish a primary level of local government but "the transitional rural councils (TRCs) that are in place are unsatisfactory models because they have no capacity in administration... they are only a political shell."[121] With no money and no office, representative councils exist only in name in most of the Eastern Cape.[122] In the Mpumalanga province, transitional representative councils' councillors lack revenue owing to non-payment of rates. "The councils are almost bankrupt."[123] In the Northern Province, the lack of fiscal capacity means that revenue of rural local government is controlled by the province.[124]

In KwaZulu-Natal, MEC Miller stated before the elections that is was possible to have:

> *... 70 local councils instead of the seven regional councils, but the ratio of resources used up in creating the bureaucracy and structures would be so high there would be nothing left for development.*[125]

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[120] According to Chipkin, local government is required to make possible the emergence of new political forms. In his view, the role of the state is to help widen the field of representation and this does not only mean pro-actively establishing or even encouraging the formation of certain pre-defined political entities. See Chipkin I., City and Community: Theoretical Legacies of South African Local Government, unpublished, 1997, p.27 ff.

[121] Intervention of Khela Shubane (then co-chair of the national Local Government Elections Task Group) during the Workshop organised by the Regional Consultative Forum and the International Foundation for Election Systems (IFES) about KwaZulu-Natal electoral preparedness, Royal Hotel, Durban, 31.05.1996.

[122] This example as well as the following ones are extracted from Fast H., Franzsen R., 'Financing local government in rural areas: status, key issues and potential revenue sources', Paper delivered during the Local Government Conference, organised by the Electoral Institute of South Africa, Johannesburg, 25-26 November 1997.

[123] Ibid., p.4.

[124] The only exception is the Western Cape where regular meetings are held and where rural local government is on firm financial footing. The reason is that they are assuming lucrative functions delegated by the provincial government on an agency basis (health and roads make up 40% of their revenue). They have a much more direct service-delivery function than for example in the Free State or KwaZulu-Natal where local government is only a funding agency. Moreover, the Western Cape inherits a situation with no bantustan legacy. Rural local governments have only to service farming areas.

[125] Ewing D., 'Life and death poll' in Democracy in Action, IDASA, Vol. 10 (2), 15 April 1996, p.7.

Small local authorities are not synonymous with increased participation because there is no means to sustain them and to give them the capacity to respond to the expectations. Such structures create very high expectations which cannot be met.[126]

2.2 - A participation limited in scope

2.2.1 - Participation in needs identification

We have seen that 'participation' in South Africa is a very ambitious term because it refers to the myth of people shaping the future of their area and playing a role in the major decisions taken by the government. Participation is glorified in the discourse of organs of civil society as well as in governmental circles but when it comes to implement it, the scope of activities it encompasses is much reduced. Participation has become synonymous with expression of needs. For example, the mayor of the South local council stated to the press that communities from both the developed and underdeveloped areas will be encouraged to form development forums "which will discuss their needs and then hand over proposals to the council."[127]

Even in the limited sense of identifying and prioritising projects, the influence of the citizens on the decision-making process is marginal. Despite complacent generalisations like "now we have democratically elected councillors and people can decide for themselves, they can set their own priorities"[128] the decisions of whether or not to finance a project are dependent on other criteria than the needs expressed.

For example in iLembe, each project in a tribal area has to be approved by the inKosi[129]. Then there is the need to arrive to a balanced geographical spread and to a fair balance between each regional authority in the regional council.

It is hard to measure the amount of popular consultation involved in the funding applications to the regional councils but there are signs that it is questionable. The chairman of the iNdlovu regional council himself accused councillors of not really consulting with the community. Apparently councillors are initiating their own projects, filling the application forms[130] without consulting on the real needs:

> *Some communities wanted crèches and now there are no children inside.*
> *They became white elephants. In your area, do not allow the misuse of*

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[126] The government finally acknowledged this point in the Municipal Structures Bill. This piece of legislation recognises the existence of areas in which local municipalities are not viable (sparsely populated areas) and which will be governed by a district municipality alone. See Ministry for Provincial Affairs and Constitutional Development, Local Government: Municipal Structures Bill.

[127] Sunday Tribune, 21.07.1996.

[128] Interview with Mr Buks Pretorius, chief executive officer of the iLembe regional council, Durban, 05.09.1997 (he was speaking about his definition of change).

[129] Interview with cllr J. Luthuli, exco member of the iLembe regional council (IFP) and deputy-chairman of the Ndwedwe sub-regional council, Ndwedwe, 06.11.1997.

[130] See in annexe XXVI a project application form in the iNdlovu regional council.

funds, please, you are responsible people.. we are giving you the application forms today but you need to consult. Some people ask now who had applied for the crèches I come to inaugurate. That proves that it was only the councillor's will.[131]

The popular participation has in fact been limited to applying for approval and assistance for self-help projects, with little two-way communication with the regional councils. Difficult choices for establishing priorities are rarely made. This does not develop local participation nor involvement.

Because of the lack of funds and because the decision-making process is not dominated by councillors nor communities, but by officials (cf. below pp.317-319), the extent of the participation is marginal. The problem is that despite drawing up a wish list that would never be able to be addressed because of the lack of funds, very little is asked from the citizens in terms of participation. Official discourse emphasises the development of a popular involvement, which will draw people into the decision-making process[132] and make them realise the constraints which they have to take into account so that they can be 'empowered'.[133] But serious questions can be raised about:

> *... the extent to which ... participation strategies can be said to enable 'communities' to make their own development choices.. it is* [rather] *a way of 'mobilising all those who are needed to make the project work' rather than identifying 'community' choices or 'empowering communities.'*[134]

In this sense, the community does not choose the 'project', the 'project' chooses the community.

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[131] Intervention of J. M. A. Ngcobo, chairman of the iNdlovu regional council, during the full council meeting of iNdlovu regional council, Pietermaritzburg, 15.08.1997. The researcher was present.

[132] For the Estcourt council, "development committees should be established in each ward in order to interact with ward councillors and they should be used to consult on local government matters." See Estcourt transitional local council, Discussion Document on the Local Government White Paper: Input from the TLC, 30 May 1997.

[133] "The GNU is firmly committed to transforming the state to an enabling agency which serves and empowers all the people" and "structured opportunities must be provided to involve civil society in the formulation, implementation and monitoring of government policies and programmes at all levels, national, provincial and local". Ministry for the Public Service, White Paper, p.15.

[134] Friedman S., The Elusive 'Community': the Dynamics of Negotiated Urban Development, Johannesburg, Centre For Policy Studies, Social Contract series, Research Report No. 28, February 1993, p.35.

2.2.2 - Reasons for limitations of community participation

2.2.2.1 - The decision and the information belong elsewhere[135]

Public participation is mainly confined to filling project applications because final decisions on policies are, in general, taken by consultants or local officials. The importance of officials in the decision-making process is analysed in more detail in chapter 6 (pp.210-213), but it is necessary here to refer to some aspects of the problem. Samoff, in his study of local politics in Tanzania,[136] states that:

> *In the development committee, there is a reliance on the government officials and technical experts. Popular representatives do not have the training and skills necessary to evaluate projects on a technical basis and ministry officials neither define their role as technical advisers to political leaders nor present their projects in a form suitable for evaluation... the broader the geographical area, the more officials and the less elected representatives are taking part in the process.*[137]

One can compare this observation to participatory processes such as the IDP in the KwaZulu-Natal TLCs or the Integrated Regional Framework exercise at regional council level. The broader the geographical area, the more technical knowledge is required and the less the public and its representatives control not only the objectives of the document but also its content.[138] According to Sartori:

> *... we have to surrender to the need for a democracy that, without being governed by experts, importantly relies on their know-how. Actually, and despite much rhetoric to the contrary, we* are *moving toward* less *power of the people. The obvious reason is that a maximum of popular power is possible only in simple societies whose leadership tasks are relatively elementary. As the mechanisms of social and economic life become more and more complex, interlocking, and of truly gigantic magnitude, the expert's opinion must acquire a much greater weight*

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[135] This part will only deal with the power of the experts and officials. One could add here the power of the central and provincial governments on the decision-making process. In South Africa as in England "local authorities are constituted to make choices on behalf of their citizens and as a voice to express their needs and wishes... However, over time local authorities have become more readily recognised as agencies for the administration of services in a pre-determined pattern rather than as local government constituted as an expression of local choice and local voice." See Clark M., Stewart J., Choices for Local Government for the 1990s and Beyond, Harlow, Longman, 1991, p.2. This topic is analysed in detail in chapter 9, p.355-357.

[136] Samoff J., Tanzania: Local politics and the Structure of Power, Madison, The University of Wisconsin Press, 1974.

[137] Ibid., p.99.

[138] Mulqueeny notes that the KwaZulu-Natal Provincial Growth and Development Strategy "involved mostly consultants and economists in its formulation." See Mulqueeny J., 'Developmental local government' in Kwanaloga The Environment of Local Government, p.11.

than his vote as an elector... today the power of initiative is very much with brain trusts and techno-experts. This development need not alarm us, for a democracy survives as long as what is essential - and therefore must *be controlled - is kept within the area of democratic controls.*[139]

The reality described by Sartori is also valid in South Africa but the difference with the United States is that it is may be more hidden than there, behind pseudo-participatory exercises. The government of experts has become a real threat to democracy and meaningful participation from those who are formally enfranchised but far from empowered. Instead of seeing democracy as the right to influence politics, to evaluate activities of public representatives,[140] and to promote the rights of people to be effective political agents, people are considered as a mere source of wishes. This is not to say that the situation is necessarily better elsewhere in the world, and that people in 'established democracies' are using their rights and are fully involved in the public sphere. But at least in Europe, for example, there is much less rhetoric on direct participative democracy, and what is even more important, it is not a question of survival for the political regimes. In South Africa, it is vital that people feel that they are heard and that they have an impact, that they believe in the representivity of their public representatives because otherwise they will prefer staying out of, instead of buying into, the political process.

It is not certain that they buy totally into the different participatory processes proposed by the municipality. Despite the warnings of the White Paper on Local Government,[141] the IDPs are consultant-driven because of a lack of in-house expertise among officials and because of the inexperience of local councillors.

In many interviews, councillors expressed their distrust of consultants. During a workshop,[142] representatives of Scottburgh and Greytown complained openly about the large amount of money spent because the IDP is being driven by professionals. Important consultancies such as Metroplan,[143] are investing in the new market which local authorities represent. They offer advice and training through workshops or training sessions, but they are also the authors of strategic documents. They are, in general, in charge of mobilising segments of civil society and councillors, consulting with them and drawing up the final document. In Estcourt, the process is flawed because there is no political backing and legitimacy. Consultants organised meetings with councillors and community leaders to get them on the

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[139] Sartori G., The Theory of Democracy Revisited, New Jersey, Chatham House Publishers, 1987, p.432.
[140] Onkgopotse J. J. Tabane, spokesman for Valli Moosa, declared that "in order to ensure that local government is held accountable at all times, we propose giving the local residents a set of performance indicators to measure their councils". Sunday Tribune, 15.03.1998.
[141] "IDP is a normal and required municipal function - IDPs are not 'add-ons' and should not be 'farmed out' to consultants. The development of IDPs should be managed within municipalities...". Ministry of Constitutional Development, White Paper, p.28.
[142] Workshop organised by the Department of Local Government and Housing, Green Paper on Local Government, ICC, Durban, 28-29 October 1997.
[143] Metroplan was appointed to draw up, among others, the Ladysmith IDF. Ladysmith transitional local council, Minutes of the Special Council, 21.01.97

Integrated Development Steering committee.[144] But this process does not guarantee success. The researcher attended one of the meetings which had to be postponed, not for the first time, because of a lack of quorum.[145]

As long as the strategies are not defined by the communities and their public representatives supported by officials,[146] real public participation will be exiguous. It is irrelevant to ask people to express their needs. While in the black areas, this produces nothing more than a wish-list and raises too many expectations, this method is not applicable to white areas because of the level of services they enjoy. In this context, this is not surprising that neither the 'B' nor the 'A' wards respond when public meetings are organised for the municipal budget or the IDPs.

2.2.2.2 - Instruments not adapted to the public

Apathy about local politics is still prevalent in white areas. In Greytown, "people were invited to participate in the budget.... Some wards in the township were consulted but in town it was total apathy." [147]

The researcher attended a public meeting about the Integrated Development Framework for the Ladysmith/Emnambithi TLC aimed at consulting the inhabitants of the central area of town and the Indian area (Akashaville) about their needs.[148] Three persons were present.

It is surely a mistake to use the same instruments for the consultation process in different areas of a TLC. It is not surprising that in the Outer West A wards, the public meetings about the budget "did little to advance the process because people did not take the opportunity to make inputs but preferred throwing stones at the council."[149] The reason is that the white community does not consider the measure as a promotion of democracy or enlargement of their rights as citizens. Councillor Meyiwa makes a distinction[150] which may at first sight contradict

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[144] The steering committee includes 12 councillors (most of them never come), six town officials, representatives of NGOs (ratepayers' associations, chamber of commerce, farmers, Wembezi development committee, taxi association), provincial departments, regional council. Estcourt transitional local council, Recommendations of the Special Exco meeting, 27.05.97

[145] Meeting of the Integrated Development Steering committee of Estcourt TLC, 07.08.1997.

[146] One idea promoted by the Green Paper is that "the committee system has traditionally been driven by reports generated by the administration. While this is usually sufficient with respect to supervisory functions, committees with a policy focus require a broad base of information sources. Options such as the establishment of policy research units; contracting in policy research capacity... should be considered". Ministry of Constitutional Development and Provincial Affairs and the White Paper Political Committee, Green Paper on Local Government, Pretoria, Government Printer, October 1997, p.62.

[147] Interview with cllr A. Shaikh, ANC exco member of the Greytown TLC, Greytown, 11.09.1997.

[148] Public meeting in the town hall, Ladysmith, 21.08.1997.

[149] Interview with cllr Brian Nair, chairman of the exco of Outer West local council, ANC, Kloof, 04.06.1997.

[150] Interview with cllr M. M. Meyiwa, ANC PR councillor, deputy-mayor of the Outer West local council, Kloof, 09.06.1997.

the conventional wisdom about black and white areas, and helps to explain the white community's abstention from the consultation process:

> *You have to understand where we come from. Our past has been an authoritarian one, one of homelands rulers. We are not used to democracy but to authoritative nomination. We need time to change the sets of mind. I am speaking about the B wards because in the white areas, white councillors are used to this kind of local democracy.*

This statement is not only contravenes the common belief that 'consultation is natural in the black culture.' It means also that in white areas, democracy exists. It is not a democracy of mass consultation or direct participation in the council's decisions. It consists rather in a direct relationship with the councillor if 'something is going wrong'. When the verges are not cut, people phone their councillors and the participation stops there, because the need stops there.

On the other hand, in black areas, the channels of communication are largely inappropriate. Some local authorities still act as if they were only dealing with the citizens in the white areas of the town. Consultation becomes a farce when people are asked to react and give their opinion on abstruse technical documents. The Green Paper on Local Government states that "many municipalities are already promoting participation through public inspection of land-use decisions, public notice of new by-laws, amendments to rates, financial statements."[151] This is quite inappropriate when it comes to involving the newly integrated areas. In Estcourt, one councillor opposed the 1997/1998 budget and asked to make the capital budget public in the local newspaper. "We advertised it but we got only one query."[152] One can wonder what kind of impact this measure had on the majority of the Wembezi residents seeing that the local newspaper is in English and that the budget was presented without any explanation.

What is even more difficult to overcome is the councillors' reluctance to tackle controversial and sensitive issues. For example, some do not want to go too deep into the budget details with their constituency. Councillor Mari[153] in Durban puts it very clearly:

> *... for the budget, the black councillors said they consulted with the community but not us* [Indian councillors] *because that could have brought conflict: on R76 m of capital budget, only R2 million was allocated to Phoenix and this kind of thing is difficult to put across.*

We have seen the importance attached to participative democracy in South Africa and the belief that it can solve all the country's problems. Participation is seen by most of those who write about decentralisation and local government, as the key - and sometimes unique - issue to

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[151] Ministry of Constitutional Development, Green Paper, p.64.
[152] Interview with Mr B. P. Marais, town clerk of Estcourt, Estcourt, 06.08.1997.
[153] Interview with cllr G. Mari, NP ward councillor, member of the exco of the North Central local council, Durban, 11.06.1997.

be addressed if one wants to promote local democracy.[154] There is the danger that the practices of consultation and participation will not go beyond 'democratic rituals' and will only enhance the different objectives identified by Dahl:

> *... democratic ceremonials and codes help to clothe the decisions of the leaders with legitimacy; they arouse and strengthen the loyalties of the sub-leaders; they provide an orderly means of adjudicating disputes; and they make it easier for new social elements to find a place in the party.*[155]

Limitations to participatory processes are often overlooked and whether through development committees, development forums or ratepayers' association, the mythical 'community' is not at the centre of all decisions taken. Moreover, the other 'aspect' of democracy, the fact that thanks to elections, citizens are represented by elected officials, that town council exists to govern and represent, is passed over in silence.

3 - Representative democracy also in danger

Representative democracy is in danger in South Africa because the dominant discourse and the government rhetoric do not lay enough emphasis on the legitimacy of councillors and their right to take decisions. Because of the myth of a community which would be able to occupy a central role in the shaping of the new South Africa,[156] direct democracy tends to be seen as more valuable than representative one.

We have described situations where organs of civil society were engaged in battles and unproductive hostility with the local authorities - a kind of relationship which is likely to prevail when one considers that people have the right to participate and contest but no duty. As Diamond puts it:

> *Civic organisations need to have respect for the state authority and should co-operate with it. The fundamental tension between opposition and loyalty should exist, because it is the base of democracy.*[157]

To establish a true culture of citizenship, the idea of participation is not alone sufficient. It is vital that citizens feel that they are also subjects who respect and obey the state. It is important not to impose unrealistic expectations on civil society or entirely turn our back on

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[154] Sabela and Reddy state that "at a political level, decentralisation enables people to participate in a real and effective way in the management of public affairs. Consequently, decentralisation is conducive to local democracy, which is the real or tangible form of democracy, very different to the theoretical and quasi-mythical democracy of electoral campaigns and speeches." Sabela, Reddy, 'The philosophy of local government', p.9.

[155] Dahl, Who Governs?, p.112.

[156] For a critical view on the unchallenged notion of civil society, see Friedman's article in annexe XXVII.

[157] Extract of a lecture entitled 'Civil society and democracy', given by Larry Diamond (Stanford University) at the University of Natal, Durban, 14 March 1997.

the state. The search for new and creative ways of democratising civil society must be accompanied by the search for positive ways to engage with the state. A democratic local government is:

> *... a decentralised representative institution with general and specific powers devolved on it in respect of an identified restricted geographical area within a state.*[158]

This means accepting local government as a legitimate authority which technically but also politically is able to solve local disputes and tensions. To measure this recognition, two aspects of the problem have been selected. Firstly, the level of accountability of councillors and secondly the scope of representation and the ways local government tries to broaden it, will be discussed.

3.1 - Some councillors less responsible than others

3.1.1 - A caucus dominated by a few

Representivity of councillors and their participation in the decisions are hampered by the importance of the caucus.[159] Because of the gap in knowledge and expertise between the members, decisions are more the reflection of the views of a few than the result of real caucus debates. The ANC is often accused of preventing councillors from expressing their personal views and applying authoritarian rules in caucus. In Ladysmith:

> *NP members have the right to differ in council over technical matters but not over principles. They can vote according to their will and the press is invited to the NP caucus. For the ANC it is very different. The whip is important. The buzz word in the ANC is transparency but they do not want anyone to witness their procedure.*[160]

While we have to bear in mind the source of this view, the interviews conducted for this study confirmed at least that the ANC caucuses in the province are composed of more diverse elements than the others and that strong discipline is enforced when it comes to decision making. Because of this diversity in terms of socio-economic background, it is understandable that the more educated dominate the caucus debates. This gives the impression to the other parties that "ANC caucuses are dominated by a few"[161] and leads to complaints about the lack of empowerment of ANC councillors during caucus meetings:

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[158] Tötemeyer G., 'Local government: where politics and public administration meet', in Heymans C., Tötemeyer G., Government by People? The Politics of Local Government in South Africa, Cape Town, Juta & Co., Ltd, 1988, p.2.

[159] See chapter 7, pp.272-273.

[160] Interview with cllr D. A. Reyneke, NP PR councillor, exco member and leader of the NP caucus of the Ladysmith/Emnambithi council, Ladysmith, 21.08.1997.

[161] Interview with cllr G. Mari, NP ward councillor, member of the exco of the North Central local council, Durban, 11.06.1997.

ANC members often do not have any idea on the subject and vote according to what the caucus has decided. The ANC needs the caucus system because they are learning now but how are you supposed to learn if you do not have to think?[162]

In comparison, DP members do caucus but there is no obligation:

... to vote like the other members of the group and the party is not prescriptive. There are topics for which members have to stick to certain positions (like the councillors' allowances) but in general the structure of our party lets us vote according to our conscience.[163]

This has been confirmed by observations of votes during some Pietermaritzburg council meetings. Each time, one or two DP councillors dissented with their caucus position. However, seeing the socio-economical homogeneity of the DP membership and the very identifiable and uncompromising positions the party defends (on crime, on liberal economic policy etc.), the danger of a split in the caucus is minimal and strong discipline is less vital for the party. When one adheres to the DP, policy matters are clearer than in the ANC's "broad church".

3.1.2 - The committee system[164]

The decision-making process of the regional councils prevents rural councillors from being accountable. Only a small minority of rural councillors is allowed to sit on the decision-making body (exco), while the majority of the councillors meet four times a year.

Considering the numbers of councillors in each regional council it is obvious that from a financial and technical point of view it is impossible to mobilise all of them for a meeting each month. Even the TLCs (those in general above 13 members), need to ease the decision-making process with an executive committee. The exco's functions are to make proposals to be ratified

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[162] Interview with cllr P. Reid, DP ward councillor of the Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 21.01.1997.

[163] Ibid.

[164] The following material concerns the organisation of the councillors' work and its impact on accountability. Another aspect of the division of duties and power between councillors which influences representivity, is the question of the executive mayor. The Municipal Structures Bill offers to the MECs for local government the opportunity to choose between an executive mayor type or a executive committee type of municipality. In the former option, powers to oversee the management of the administration; the provision of services; the implementation of the IDP and any other programme are vested into the mayor's hand. He/she can set up a cabinet (a mayoral committee) and give those councillors portfolio. In the latter option, those powers belongs to a committee. See Ministry for Provincial Affairs and Constitutional Development, Local Government: Municipal Structures Bill, sections 44 and 48. The positive aspect of an executive mayor system would be that the head of the municipality would be clearly identified and that his/her legitimacy would be increased because of the direct election. But the main problem relates to the calibre of individual councillors. During a provincial workshop, councillors expressed their fear of the idea of giving too much power to an individual, because of councillors' capacity and because of the danger of corruption and nepotism. (Workshop organised by the Department of Local Government and Housing, Green Paper on Local Government, ICC, Durban, 28-29 October 1997).

when the council meets in plenary In the regional councils, the exco meets once a month and they have to:

- Carry out resolutions of the council;
- Prepare estimates of revenue and expenditure;
- Spend the money voted by the council.
- Report on these activities to the council.[165]

According to Section 160(2) of the constitution, the following powers may not be delegated to the exco but must be exercised directly by the council:

- Passing of by-laws;
- Approval of budgets;
- Imposition of rates and other taxes, levies and duties;
- Raising of loans.

The system is advantageous in terms of efficiency because it encourages speedy decisions. However, the statement in the White Paper on Local Government which claims that this system also increases accountability, because "an independent legislature can call both the executive and administration to account and is able to stimulate debate on policy issues and probe the implementation process",[166] seems to defy reality on the ground. The researcher's study of the KwaZulu-Natal councils suggested that the 'independent legislature' (the full council) is not able to 'stimulate' debate in any meaningful way.

In the first place, 'ordinary' (non-exco) councillors lack the information.

The problem exists, though less importantly, in urban areas. It is very rare for example that copies of agendas and minutes of the sub-committees circulate among all TLC councillors. If the practice was adopted in the Outer West local council,[167] it was rejected by the Ladysmith/Emnambithi exco because "it could lead to misinterpretation."[168]

In rural areas, the full council is kept informed of what is happening in the exco through the agendas they receive before every meeting (four times a year). A list of all the exco resolutions taken since the last full council meeting,[169] in general with no explanation, is insufficient to enable the council to control and initiate policies.[170]

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[165] Zululand regional council, Agenda of the Council, 21.08.1996.
[166] Ministry of Constitutional Development, White Paper, p.83.
[167] Outer West local council, Minutes of the Exco, 22.07.1996.
[168] Ladysmith transitional local council, Minutes of the Special Exco, 13.11.1996.
[169] Interview with Mr M. Shandu, Director of Management and Administration, Zululand regional council, Ulundi, 23.07.1997.
[170] An extreme situation can be found in uMzinyathi where it is not a sub-group from the exco which initiates the policies but an advisory exco committee of six members (the chair of the RC and his deputy, one IFP councillor, one ANC councillor, one independent councillor and the CEO) which helps the exco to take the decisions. The reason is that "there are too many people in the exco." The advisory committee only makes recommendations to the exco, it does not have delegated powers except exceptional ones. The advisory committee meets every two weeks or on a weekly basis, depending on the agenda. (Interview with cllr Willie Schoeman, Independent councillor, member of the exco of uMzinyati regional council and member of the Newcastle TLC, 21.04.1997). It is there that the main decisions are taken.

In addition, there is the problem of mandate towards the larger body. Many of the councillors interviewed noticed the increasing gap between the exco and the full council. Exco councillors tend in general to forget that they were voted in by the full council and behave in a domineering way.[171] The consequence is that 'ordinary' councillors tend to think that the exco members have too many powers:

> *... the relationship between exco and the full council is tense and the council even wanted to disband the exco which was accused of not consulting with the council over important decisions.*[172]

On the other hand, exco councillors and officials consider that the council voted delegated powers to the exco and that now 'ordinary' councillors have no right to complain. The delegation of power is not in itself a problem. But it is necessary if the idea of representivity of councillors is to be meaningful, that regular consultation takes place between exco and non-exco members, whether through the sub-regional committees or the caucus meetings. Instead, 'ordinary' councillors' concerns are not addressed properly[173] and dissatisfaction is spreading slowly to all the regional councils in the province.[174] 'Ordinary' councillors are *de facto* second rank councillors. They do not know what an exco should be, what is happening in the council meetings and what kind of decisions are taken. They cannot in the true sense, be held accountable by their electorate, since the executive committees are not properly accountable to them.[175]

One is left to wonder about the consequences of the measures advocated by the Municipal Structure Bill. The drastic decrease in the number of exco members proposed by the Bill is not an encouraging sign. The proposal is to decrease the number of exco members to

"(a) seven councillors, if the council has 40 or more members [in comparison, a regional council exco can have 30 members]

(b) five councillors, if the council has 20 to 39 members; and

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[171] During an iLembe full council meeting, the chairman of the exco addressed the councillors beginning by "when the community elected us on exco... hum ... when you as a council elected us as exco" (iLembe council meeting, 04.11.1997). It was a revealing slip.

[172] Interview of a member of the Zululand regional council.

[173] In uThungulu, when concern was expressed by the majority of councillors regarding the extensive powers which are vested in the exco, the officials requested the councillors "to submit proposals on the division of powers, duties and functions between the council and exco to the MEC". uThungulu regional council, Minutes of the Council, 27.02.1997. This is a way of preventing the issue from being tackled.

[174] In uThungulu, councillors are suspicious about the reasons why the funds were allocated in some areas. They would like the exco not to take decisions but wait for the full council three times a years, "which is impossible". (Interview with cllr Dube, representative of the women's interest group in the uThungulu regional council exco, Eshowe, 16.07.1997). In iLembe, "there was never a public debate about it in council but I feel that there is some tension in council because the decision lies really in exco. A lot of councillors complain that they are only a rubber-stamp." (Interview with Mr Buks Pretorius, chief executive officer of the iLembe regional council, Durban, 05.09.1997).

[175] The problem is made worse by the fact that the important responsibilities of exco councillors are translated into higher allowances. This became obvious when the North Central council could not agree on the determination of allowances and dissension broke among ANC councillors about the large gap between 'ordinary' councillors and exco members. Mercury, 22.10.1997.

(c) three councillors, if the council has fewer than 20 members."[176]

Besides, if the council does not have more than 9 members, a municipality could not set up an exco.[177]

3.2 - Political parties and representivity

According to the constitution and unlike some other countries (for example France), a member of the National Assembly, the National Council of Provinces or of a provincial legislature cannot be a member of a municipal council.[178] If public representatives cannot simultaneously hold elected positions, they use their party structures extensively to keep in touch with the other spheres of government. This enables parties to control the activities of the local councillors.

Local councillors in KwaZulu-Natal benefit from the support of senior politicians who occupy posts at the provincial or even national level. In an interview, IFP MP Senzo Mfayela - whose constituency stretches from Hillcrest in the west to the northern border of the Durban metro in the south, to Appelsbosch in the north - describes his constituency work as meeting councillors and tribal authorities: "I am here to open the doors that are closed to our councillors, our tribal authorities, our development committees."[179] Most of the interviewees declared that they were satisfied with the technical or political advice given by senior politicians, especially when they helped to enforce discipline in the council.[180]

The weight of the party and the involvement of national or provincial politicians in the council's affairs depend on the size of the urban area[181] and on the presence of MPP's or even MP's constituency offices. In Estcourt, the IFP caucus seems to be strongly influenced by the local MPP (Mrs Ford) who in the past occupied a seat in the Estcourt local council. "The IFP caucus is 'linked' to Mrs Ford but the ANC is doing the same."[182]

When an MP or MPP constituency office is located in the TLC, councillors often establish their own offices there. MPs and MPPs also often participate in the caucus meetings :[183]

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[176] Ministry for Provincial Affairs and Constitutional Development, Local Government: Municipal Structures Bill, section 31.

[177] Ibid., section 11 and 12.

[178] Constitution of the Republic of South Africa, section 158 (1)(d)

[179] Sunday Tribune, 08.03.1998.

[180] In a TLC, "during the mayoral race, an ANC councillor was approached by the NP and IFP, who told her that they would like her to be the mayor because she was a 'consensus choice'. She was ready to stand but the ANC heard about it and we had a caucus with the MPP and senior officials from the ANC. We decided to keep the status quo in the composition of the council. She stepped down in council but publicly emphasised that it was 'because of party discipline' (Interview with a TLC councillor).

[181] Stadler also notes that in Mpumalanga there is a difference in quantity and quality between the interaction with the central and provincial parties in the bigger TLCs and in the smaller ones. Stadler A. W., 'Parties in local politics', unpublished paper delivered at the Electoral Institute of South Africa's conference, The Local Government Conference, Johannesburg, 25-26 November 1997, p.15.

[182] Interview with an IFP Estcourt councillor.

[183] Interview with cllr K. G. Rassool, deputy-mayor of Ladysmith, ANC PR councillor, Ladysmith, 20.08.1997. It is also interesting to note that one of the initial ideas of the committee in charge of drafting

We ask MPPs to deal with issues we cannot address locally. What is good about the party is the 'machinery'. We benefit from a lot of workshops, and from their expertise. And it is easier to reach ministers at national level being an ANC council and through our MPs.[184]

The ANC Ladysmith caucus succeeded in attracting several prominent party members. In 1996, during the local elections, Prof. Kader Asmal was in Ladysmith for the campaign.[185] In 1997, the minister came back to inaugurate the flood dam. This has led the NP caucus complaining about "the ANC hijacking of the inauguration of the flood dam."[186]

The other opportunity for councillors to meet with elected representatives from the provincial and central government is the training sessions or workshops[187] which give also an important opportunity for councillors to meet among themselves. However, the ANC seems to consider those contacts too sporadic because they ask "all the ANC caucuses to send monthly reports on the activities of every committee so that more regular contacts could be established.[188]

Especially among inexperienced councillors, the contacts between councillors, MPPs and MPs are likely to influence strongly the decisions of the caucus. When in the iLembe regional council, "in order to keep in touch with the policies, MPs and MPPs are invited to attend the IFP caucuses"[189] or where in Glencoe "ANC members coming from higher level back the councillors"[190], it is difficult to imagine that the caucus has any capacity to resist "the advice" of the party.

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the White Paper was to dedicate "Chapter 12 to... linking parliamentary constituency offices and MP's with local authorities". Portfolio committee on constitutional development meeting, 3 September 1996, Discussion document : White paper on Local Government, p.12. This reference was present in neither the Green nor the White Paper surely because it would have amounted to recognising too openly the weight of the political party over the council decision.

[184] Interview with cllr K. G. Rassool, deputy-mayor of Ladysmith, ANC PR councillor, Ladysmith, 20.08.1997.

[185] Ladysmith Gazette, 22.08.1997.

[186] The Mercury, 20.11.1997. The NP stated that much of the paper work for the dam had been done before the new government was in office. According to cllr Niemand, "recognition should be given to those citizens, councillors and officials who have through the years been instrumental in the realisation of this dam."

[187] "The ANC called a mayor meeting in Pietermaritzburg in September 1997." Interview with cllr A. Shaikh, exco member of the Greytown TLC, Greytown, 11.09.1997.

[188] Interview with cllr R. Naicker, Independent exco member of the Stanger TLC, Tongaat, 07.11.1997.

[189] Interview with cllr B. R. Ngcobo, chairman of the Ubumbulu standing committee, IFP member of the exco of the iLembe regional council, Durban, 20.11.1997.

[190] Interview with cllr P. Bisram, Glencoe deputy-chairman of the exco, 25.11.1996.

3.2.1 - Importance of party's directives

A complaint often directed at councillors elected on a party ticket is that they are not really responsive to their constituency because they owe their seat principally to the party. It is the main argument put forward by the independent candidates against the presence of political parties at the local level.

The press often questions the responsiveness and accountability of councillors, especially those elected on the PR list. Criticisms along the following lines:

> *Despite the elections, the quality of local politicians still leaves a lot to be desired, a consequence perhaps of the fact that some councillors were nominated to their positions by their parties.*[191]

are typical of the journalists' attitude. They do not hesitate to ask questions such as:

> *... does the introduction of party politics in local government enhance the delivery of service to communities, or does it only serve the interests of political parties and their members?*[192]

Sometimes reporters, in their eagerness to put the blame on parties for the lack of accountability of councillors, even distort the information. The municipal reporter of The Mercury, writing about the dismissal of councillor B. P. Jaglal from the South Central local council wrote that "Jaglal was selected by the party to represent the Minority Front on council and not voted in by ratepayers."[193] The reporter insinuates here that PR councillors do not enjoy the same 'quality' of legitimacy as ward councillors. But at the end of the day, it was indeed 'ratepayers' and more broadly the citizens who voted for both ward and PR councillors.

Journalists are only reflecting public opinion. It is not rare that PR councillors are criticised by a group of citizens, on the ground that they are not really legitimate to speak on their behalf because they do not represent a particular area. For example, the Shallcross Civic and Ratepayers' Association (SCARA) used this argument in the Inner West. The local ward councillor (elected on a ratepayers ticket) is presented as directly accountable to them:

> *He attends the meetings of SCARA where he is briefed and can brief about the council's decisions...* [The problem is that] *officials of the council have been meeting the PR councillor* [elected on a MF ticket] *who resides in Shallcross on issues affecting our area... This is unacceptable because PR councillors are not directly accountable to residents in the ward.*[194]

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[191] The Mercury, 24.12.1996.
[192] The Mercury reporter asked this question to the Ladysmith/Emnambithi councillors. The Mercury, 07.11.1996.
[193] The Mercury, 14.01.1998.
[194] Letter from SCARA concerning the roles of their ward councillors. Inner West local council, Agenda of the Exco, 26.11.1996.

Some incidents, like the dismissal or the choice of councillors elected on PR by their own party[195], seem to prove critics right. When a senior MF South Central councillor (he had been the party's secretary), was replaced on the PR list by the leader of the party's son, accusation of the party being "a one-man show"[196] were voiced. The lack of MF councillors' independence appeared obvious. Some councillors are even occupying their posts not because of their skills but because of the will of the party, which has its own strategy and interests to defend[197]:

> *There was a problem in the selection of councillors on the party list. Some are good people but some were only chosen because they were located in an ANC area and the IFP wanted to 'work' the area.*[198]

The ANC caucuses in the province were particularly criticised by the interviewees because they were dictating decisions to the councillors. They were said to be not autonomous from ANC MPPs, and even controlled by them. "The chairman of the Inner West local council goes to Sutcliffe[199] who tells him what to do. It is a top-down approach that we refuse."[200] In the Outer West local council, Sutcliffe was also quoted as the main brain behind the ANC caucus' positions: "this is mainly due to the fact that councillors do not understand the issues. The problem is that the decisions are taken considering a provincial perspective and not for the good of the local people."[201] Although these allegations came mainly from party opponents, the researcher found some corroborating indications. During a conference, the author over-heard a prominent member of the metropolitan ANC caucus stating to some colleagues that they better look into a particular issue being debated "before Mike [Sutcliffe] tells us what to do."[202]

The feeling of councillors is mixed on the issue. Most of interviewees insisted that the party did not infringe on their autonomy of decision. The North Central local council NP whip states that his party receives "some help from Haygarth but the decision-making process is in our hand."[203] Unsurprisingly, the ANC councillors are just as adamant in their claim that they are not 'radio-controlled' by senior politicians and the ANC office:

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[195] The right of parties to dismiss PR councillors still needs to be clarified. In the Free State, it is virtually impossible for a political party to remove a councillor from office.
[196] The Leader, 09.01.1998.
[197] If this phenomenon is not confined to the local level of government, it is more noticeable due to the smaller councillors' constituencies.
[198] Interview with an iLembe regional councillor.
[199] ANC provincial MP and chairman of the portfolio committee on local government.
[200] Interview with cllr A. R. Mitchell, NP ward councillor, member of the exco of the Inner West local council, Queensburgh, 06.06.1997.
[201] Interview with cllr V. I. Webber, DP ward councillor, deputy-chairman of the exco of the Outer West local council, Durban, 10.06.1997.
[202] Workshop organised by the Department of Local Government and Housing, Green Paper on Local Government, ICC, Durban, 28-29.10.1997.
[203] Interview with cllr G. Mari, NP ward councillor, member of the exco of the North Central local council, Durban, 11.06.1997.

There is no political interference from higher tiers (national or provincial offices of the ANC) but we have discussion on policies (for example housing). The party does not get involved in the nitty-gritties but helps the new councillors who have a structure to back them. For example, we benefited from the presence of the national minister of housing in one of our workshop. We are updated on national and provincial developments and on how to access grant funding.[204]

However, a few councillors acknowledged feeling less legitimate/accountable because they were elected on a PR list. The Estcourt TLC's contribution to the Discussion Document on the Local Government White Paper observed that:

> *... with the introduction of party politics, the interests of the ratepayers/residents are not always borne in mind when decisions are made... The councillors should consult with the residents on their needs and explain the functions of the municipality to the role-players.*[205]

The PR councillors are also criticised by their colleagues in council for their lack of accountability and their remoteness, especially PR metropolitan councillors[206] The deputy-mayor of the North Central local council chose to stand for a ward, despite his secure position on the ANC PR list (fourth position) because "I want legitimacy and credibility."[207]

Even when elected on a ward basis, councillors feel the weight of the party. An ANC Ladysmith councillor also acknowledges that:

> *... during the elections, people voted for the party, they did not know me. Councillors think they can claim that it is 'their' wards but they owe everything to the party... I am not a politician but I am controlled by the party. It is a problem when they tell me to do something which contradicts my role as a councillor. When the ANC asks me to organise meetings for the party and at another moment, for the ward, people are confused.*[208]

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[204] Interview with cllr L. Naidoo, ANC chairman of the exco of the North local council and ward councillor, Umhlanga, 23.10.1997.

[205] Estcourt transitional local council, Discussion Document on the Local Government White Paper: Input from the TLC, 30 May 1997.

[206] Mashinini (chairman of the White Paper working committee) thinks that "there is a misconception that if the metropolitan level concentrate all the power, it will be taken away from the people. We can have one council and then decentralised consultation and provision and participation will still be possible. More councillors does not mean more representivity." (Workshop organised by the Department of Local Government and Housing, Green Paper on Local Government, ICC, Durban, 28-29 October 1997). However, the majority of the Durban councillors interviewed consider the strong metropolitan model as a regression in terms of representivity.

[207] Interview with Cllr Bonhomme, ANC, deputy-Mayor North Central council, Durban, 19.03.1997.

[208] Anonymous interview with an ANC Ladysmith councillor.

In some instances, the interests of the party go directly against those of the local council and a difficult balance has to be struck. There is often a paradox between the need for local leaders to be responsive to the constituency and the logic of national policies. This is clear when it comes to the issue of the provincial capital. The iNdlovu regional council, dominated by the IFP "would not take a strong position on the issue because it would be in conflict with the party line: regional councillors want Pietermaritzburg to remain the capital."[209] Despite the economic advantages of the capital status of the TLC, the regional council backed down when it had to express its preference clearly. The document called Growth and Development Plan for the Midlands Region underwent significant changes in its different versions. The draft which dated from September 1996, outlined the necessity to "retain Pietermaritzburg as the provincial capital."[210] The final version, dated March 1997, only advocated the strengthening of "Pietermaritzburg's role as an important administrative centre"[211] and erased the previous draft's appendix four, entitled 'The capital question, Ulundi versus Pietermaritzburg'.

On the ANC side, it is not a secret at all that the ANC caucus of the Durban metropolitan council was against the vision of a single city for metropolitan areas favoured by the Ministry of Constitutional Affairs and the party's national leadership. The submission of the Durban local councils to the first draft of the White Paper (Discussion document) states clearly that:

> *Most significant is the unanimous satisfaction with and commitment to the current local government model that is operating in the DMA... While transitional difficulties and confusions obviously exist, the structures* [local councils and metro council] *are operating well together and are beginning to enjoy a harmonious and beneficial relationship with one another... It is felt that we should not embark upon yet another restructuring process so close on the heels of the one that is being put in place at the moment.*[212]

IFP MPP J. Aulsebrook confirms this:

> *The different drafts of the White Paper which circulated in December (12th) 1997 and January (7th) 1998 made it clear that the option* [advocated by the MCDPA] *was for a single-city and minimal role for*

[209] Interview with an IFP iNdlovu regional councillor.
[210] SWK Planning and development, Outline Strategies for the Growth and Development of the Midlands Region, final draft report, September 1996, p.9.
[211] SWK Planning and development, Outline Strategies for the Growth and Development of the Midlands Region, final draft report, February 1997, p.10.
[212] Joint Councils of the Durban Metropolitan Area, Response to the Discussion Document. Local Government White Paper Process, May 1997, p.ii.

the amaKosi. On the first aspect, it was interesting to see how the metropolitan ANC councillors in the province opposed the move.[213]

It is through these contentious issues, that one can clearly measure the lack of independence of the local sphere of government.

The necessity to toe the party line is likely to become more pressing with the new Municipal Structures Bill. It prevents councillors from crossing the floor by stating that:

- a councillor vacates office if that councillor "was elected from a party list.. and ceases to be a member of the relevant party."[214]
- "a member of an executive committee who is a councillor representing a ward, vacates office as such a member if that member changes party affiliations, but is eligible for re-election."[215]

3.2.2 - Political divisions preventing strong lobby

The representative role of councillors is not limited only to discussing matters with their constituents. An effective representative action often means exerting pressure on the other spheres, by sending deputations to the minister responsible, canvassing the local member of parliament, writing to the press... However, this means that councillors should use the greater autonomy which has been granted to them. This means not only being able to shape policies and assume responsibilities for their own decisions - something that is not given seeing the 'colonised' state of mind of some councillors[216] - but also that local authorities are able to join together when they have to defend their interests. The provincial local government association Kwanaloga[217] should play this role: "The mission of Kwanaloga is to promote good and effective local government throughout the province, through interaction and co-operation with

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[213] Mr J. Aulsebrook, IFP MPP, Study group chairman of the Local Government Portfolio Committee of the Provincial Legislature, 28.01.1998 (telephonic interview).

[214] Ministry for Provincial Affairs and Constitutional Development, Local Government: Municipal Structures Bill, section 21.

[215] Ibid., section 35.

[216] During a presentation of the FFC to the Kwanaloga exco about its discussion document on inter-governmental fiscal relations, prominent members of the ANC caucus of the Pietermaritzburg and Durban city councils asked if some national grants could be conditional because "there should be checks and balances, we cannot allow the money to go anywhere." The FFC replied that it was a constitutional provision that local government was entitled without conditionality to a share of the national revenue and the only check is done by the electorate. This suggests that councillors do not trust themselves and are still waiting for other spheres to check on their activities. Presentation by the Fiscal and Financial Commission of its discussion document 'Local government in a system of intergovernmental fiscal relations in South Africa', to the executive committee of Kwanaloga, Durban, 08.10.1997.

[217] Kwanaloga stands for KwaZulu-Natal local government association. It exists since 1903 and was inclusive in theory of all local authorities in Natal and KwaZulu. However, a special association for the KwaZulu local authorities existed, Kwaloga. The black towns which were under the Natal administration were organised under the Urban Council of Natal. Since the pre-interim phase, all local authorities in the province belong to the same association. Interview with the Kwanaloga director, Andrew Ferguson, 28.05.1996

central, provincial and local government..".[218] But due to political infighting, Kwanaloga is prevented from playing this role.

The association provides much technical support to local authorities. For example, in nearly every agenda of exco and council meetings, one can find documents sent by Kwanaloga clarifying a legal point or presenting a new bill affecting local authorities. However, Kwanaloga is unable to present a common front to dialogue with provincial or national government and it is not recognised by the provincial government as a natural partner.

Kwanaloga is not a strong lobby because it suffers from internal dissensions. It has been the place of a fierce battle between the ANC and the IFP, over who should be nominated as president of Kwanaloga in 1996. The NP and the IFP indicated that they would vote for candidates from their own parties, whereas the ANC pointed out that they supported Sipho Ngwenya (IFP) when he stood for the position in 1995 and have called on the IFP to reciprocate and support the candidacy of their member, Obed Mlaba.[219] The IFP with the support of the NP, was able to have its nominee elected to lead the influential provincial association. This election appeared to have seriously undermined the co-operation and warming relations between the ANC and the IFP in Durban.[220] The IFP used its provincial majority to thwart Mr Mlaba's candidacy. The upshot of his election was that the provincial association had a president that did not enjoy the confidence of its biggest financial contributor (Durban) and who was seen as representing IFP-controlled rural regional councils.

Moreover, the provincial government does not recognise Kwanaloga as representative of all local authorities in the province. In fact, there are two provincial associations of local government (unlike all other provinces) despite the desire of Valli Moosa to deal only with one per province. Whereas Reglogov (Association for Regional Local Governments) disbanded to let SALGA be the only representative of local government at a national level,[221] the KwaZulu-Natal Association of regional councils, successor of the Association of the JSBs is still in operation. Seeing that the results of the local elections clearly split the province into rural IFP and urban ANC's strongholds, it is logical that the IFP tried to retain a certain independence of proposition and avoid being put in minority in Kwanaloga[222] and even more so in SALGA.[223] According to councillor Vos, the association of regional councils took over from the former

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[218] KwaZulu-Natal Local Government Association, Constitution, Durban, 30.10.1996, p.1.
[219] The Mercury, 30.10.1996.
[220] The Mercury, 12.11.1996.
[221] A letter was sent by Reglogov in April 1997 announcing the disbanding of Reglogov to all the rural local governments: "In view of the fact that two official national bodies for local government could not be in place, it was decided that Reglogov be disbanded, however that the regional/district councils meet on an informal basis and address any problems affecting rural areas." iNdlovu regional council, Agenda of the Exco, 10.04.1997.
[222] "In Kwanaloga, there is a split between urban and rural councillors and in SALGA, you only hear praise for the government." Interview with cllr J. P. Vos, NP, deputy-chairman of the iNdlovu regional council, Kokstad, 21.02.1997.
[223] The letter sent by Reglogov announcing its disbanding mentioned that "certain sentiments were expressed at the last meeting of Reglogov that SALGA had an urban bias." iNdlovu regional council, Agenda of the Exco, 10.04.1997.

association of JSBs and the constitution was amended. Its exco is formed by the chairmen, deputy and CEOs of all the seven RC which means 13 IFP and one NP plus the officials. It works as "an interest group to discuss specific problems of rural areas but accepts that any dialogue with provincial or national government is channelled through Kwanaloga."[224] However, the association of regional councils made its own submission to the ministry of Constitutional Development concerning the White Paper, in parallel with Kwanaloga's submission.[225] The Association of Regional Councils is informal "but meets regularly with the MEC and is believed to have the ear of Miller more than Kwanaloga, because the MEC is of a specific political party."[226] This was confirmed when MEC Miller announced that regional councils would take over the broad-based functions of fully fledged local government entities. He pronounced his speech in a meeting of the Association of the RC.[227]

In conclusion, it appears that councillors cannot really be held accountable or responsible for the decisions taken in council because, in addition to their lack of leadership capacity,[228] most of them have limited access to information and are dominated by caucus leaders, exco members, MPPs and party's interests.

3.3 - Who is represented and how?

3.3.1 - Political interests hidden behind organs of civil society

If we have emphasised on the lack of representivity of councillors, an issue which has tended to be overlooked is the lack of representivity of organs of civil society. As the Provincial Growth and Development Strategy points out, "as a result of the high level of violence, and the legacy of forced removals and rapid urbanisation, communities in KwaZulu-Natal are fractured and cannot be assumed to be homogeneous and unified for purposes of planning."[229] What is often not taken into consideration, is that associations or groupings represent specific and limited interests.

Expressions such as 'community participation' are too often used to legitimate a process without really defining whose interests hide behind the word 'community'. It is an attractive shorthand notion, but empirically it is difficult to know who it encompasses. The term refers to a group of individuals in a specific geographical area as if they were forming a single organism

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[224] Interview with cllr J. P. Vos, NP, deputy-chairman of the iNdlovu regional council, Kokstad, 21.02.1997.
[225] Interview with Mr A. M B. Creighton, chief executive officer of the uThungulu regional council, Richards Bay, 18.07.1997.
[226] Interview of cllr Horton, member of the exco of Kwanaloga, 22.10.1997.
[227] The Mercury, 24.11.1997.
[228] See chapter 6, pp.238-243.
[229] KwaZulu-Natal Provincial Cabinet, The Provincial Growth and Development Strategy for KwaZulu-Natal, approved by the Resolution No. 236 of 3 July 1996, p.26.

with a single mind. But the political reality is much more complex and organisations who purport to speak for 'communities' are mandated by a small minority within them:

> *Current attempts to negotiate development 'with the authentic leaders of communities' are obstructed by the fact that no such creature exists ... it is not possible to draw up guidelines which can ensure that 'the voices of (all) the people' are heard.*[230]

Because there is no test of representivity, organs of civil society can claim to defend the interests and to voice the concerns of a whole geographical area. In the metropolitan area, we have seen that the development forums are threatening the legitimacy of the councillors. Forums can be used as a tool by political competitors:

> *... some people who did not make it during the recent local government elections may see development forums as an alternative power base to be abused... This can threaten elected councillors, some of whom are being discredited rather than assisted in their roles as local councillors.*[231]

In other cases, the contrary happens and promoting participation often means dealing with the association which is closest to the councillor This risks leaving out a whole segment of the population. The White Paper on Local Government warns against this risk: "the participatory process must not become an obstacle to development, and narrow interest groups must not be allowed to 'capture' the development process."[232] But in the meantime, councillors are creating or appropriating development committees supposed to represent the will of their ward.

Some councillors have initiated local bodies to keep in touch with their constituency. The mayor of the South Central local council, in order to be aware of what is happening in her ward, organised a development forum which has an office in Umlazi and is organised around several technical committees. When someone has a problem, he/she goes to the relevant committee which reports it during plenary meetings attended weekly by the mayor.[233] For most of the councillors, not only mayors who have a heavy work load, but also councillors who are working, the solution is to set up or to use a local association which covers their ward.[234] The danger is that because the development committee is associated with the local councillor, it is identified with the locally dominant political party and thus excludes the other voters:

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[230] Friedman, The Elusive 'Community', p.26.

[231] Nene B., Building an Understanding on Community-Based Development Fora, Durban Metro, Urban Strategy Department, January 1997, p.18.

[232] Ministry of Constitutional Development, White Paper, p.20.

[233] Interview with Theresa Mthembu, mayor of the South Central local council and Umlazi ward councillor, Durban, 07.03.1997.

[234] In the South local council, the "development committees are dominated by councillors." (Interview with Teresa Dominik, Development Manager, Urban Strategy Department, Metropolitan council, Durban, 15.05.1997). In the black areas of the KwaDukuza TLC, "some councillors set up some structures (development committees) that they work with." (Interview with cllr R. Naicker, Independent exco member of the KwaDukuza TLC, Tongaat, 07.11.1997).

> *... some local councillors could be discrediting development forums that were in existence when they got elected... Some local councillors could rush into setting up ward structures that are manipulated for their own comfort or party political gains/posturing. Some of the ward structures are perceived or alleged to be aligned to party political structures.*[235]

In Ladysmith/Emnambithi TLC, ANC councillor Kathide who is a member of the Steadville development committee stated clearly that "the association is aligned to the ANC, so sometimes it is a problem for IFP residents."[236]

The lack of clarity around the issue of who can legitimately claim to represent the community has a direct impact on the possibility of setting up a new model of local government for metropolitan areas. The Municipal Structures Bill imposes in each metropolitan ward, the election of a ward committee "to enhance participatory democracy in local government".[237] This committee would be composed of the ward councillor as chairperson together with "10 persons residing in the ward and elected at a public meeting convened for that purpose".[238] These committees would exist even if the area committee system was retained. This would amount to having three deliberating councils (the metropolitan council, the area committees and the ward committees) in metropolitan areas. Beside adding complexity to the system, this solution would creates the impression of direct democracy without making it work. The ward committees are only advisory forums and their duties and powers are delegated by the council.[239] How are communities likely to react if most of the proposals coming from this "super legitimate" body are not even taken into account by the council? Finally, the last problem created by the solution is one of representivity. How is the council going to ensure that the 10 persons elected onto the committee are representative of the diversity of interests of the ward? In particular, due to the fact that the elected members will receive no remuneration,[240] how is the council going to make sure that the representatives are not all coming from the wealthiest part of the population?

The Durban metropolitan and local councils seem to have been aware of these dangers. In their response addressed to the ministry of Constitutional Development, they states that:

> *... the establishment of ward committees must be decided by the Metropolitan council and should not be mandatory.*[241]

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[235] Nene, Building an Understanding, p.18.
[236] Interview with cllr M. P. Kathide, ANC ward councillor, exco member of the Ladysmith/Emnambithi council, Ladysmith, 20.08.1997.
[237] Ministry for Provincial Affairs and Constitutional Development, Local Government: Municipal Structures Bill, section 60 (2).
[238] Ibid., section 61 (2)(b).
[239] Ibid, section 62.
[240] Ibid, section 65.
[241] Durban Metropolitan Council and Associated Local Councils, A Response to the Local Government : Municipal Structures Bill, p.5.

3.3.2 - Dictatorship of the majority?

The content of some ANC documents cast some doubts over the importance granted to minority interests. For example:

> *The most important current defining feature of the South African democratic state is that it champions the aspirations of the majority who have been disadvantaged by the many decades of undemocratic rule. Its primary task is to work for the emancipation of the black majority, the working people, the urban poor, the rural poor, the women, the youth and the disabled.*
>
> *It is the task of this democratic state to champion the course of these people in such a way that the most basic aspirations of this majority assumes the status of hegemony which informs and guides policy and practice of all the institutions of government and state.* [242]

Sartori attracts our attention to the necessity - if one wants democracy to work - to prevent the dictatorship of the majority over the minority so that the latter can have a meaningful contribution to the political process:

> *People consist, overall, of the majority* plus *the minority. Hence, if the majority criterion is turned (erroneously) into an absolute majority* rule, *the real-world implication of this switch is that a part of the people (often a very large one) becomes a non-people, an excluded part.*[243]

The fact that the ANC often dominates in the urban councils and sometimes has enough of a majority to vote the budget alone (in Pietermaritzburg/Msunduzi for example), frustrates some councillors from the opposition[244] but except in extreme situations of tension[245] they still feel that they can contribute to the decision-making process.[246] Because all the municipal committees are composed of representatives from political parties in proportion to their electoral results, all the parties are more or less included in all the meetings. The use of the press, especially by the DP, ensures also that the minority parties are heard: "there is no way to

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[242] For example, ANC, The State and Social Transformation, p.3.

[243] Sartori, The Theory of Democracy, p.32.

[244] "In the TLC, the ANC has the majority and the party can do as it pleases." Interview with cllr G. J. N. Meyer, NP councillor, exco member of the iNdlovu regional council and exco member of the Pietermaritzburg/Msunduzi TLC, 01.04.1997.

[245] In Howick, the chairman of the ratepayers' association was "physically thrown out of the council chamber by 11 ANC councillors" according to the association. Village Talk [which is the Howick local newspaper], 28.05.1997.

[246] "There is still a possibility for other parties to make an input. I do not feel that the other parties are excluded from the decision-making process." Interview with cllr Beningfield, chairman of the exco of Mandeni TLC, Independent, Mandeni, 14.07.1997.

have an impact on what has been decided in the ANC caucus except by embarrassing them so much that they change their views."[247] By contrast, in the rural areas, the prevailing sentiment of the ANC in the regional councils is one of helplessness. "The IFP is too powerful and do not want to listen to an ANC when he stands up."[248]

Except in rural areas, where councillors from the minority parties feel that they have no input in the policy making, collaboration between majority and minority parties in council is good on the whole. However, a minority - or is it a majority? - of the South African population continues to be disfranchised. Even if the black majority is now represented by new councillors, there is still a silent portion of the population which has no access to the public realm. All individuals were said to have been equalised and rights universalised by the elections, but participation is confined to a small minority who can use the channels of communication set up by the council.

Representation of marginalised sections is not necessarily achieved by free and fair elections. As Reitzes points out, 'civil society' in South Africa is composed of very diverse elements:

> ... *what... needs to be acknowledged, is not only* [civil society's] *plurality but the essential diversity of political and social identities and self-understandings, needs and interests existing within this sphere. One cannot assume... a universalising and totalising sameness, or the pre-existence of a normative consensus. This would be a spurious claim especially in the context of a society like South Africa, which is fractured into a multiplicity of different communities which are frequently in conflict with one another and stand in fundamentally complex, differentiated and oppositional structural relations to one another.*[249]

What is at stake at local government level, is to "include the excluded"[250] and one of the only ways identified by the White Paper is to favour the election of specific categories of people, so that they can defend the interests of their group in council. One example that comes to mind as a specific interest group whose access to council has to be promoted is women.[251]

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[247] Interview with cllr R. Keys, DP councillor in Pietermaritzburg/Msunduzi and exco member of the iNdlovu regional council, Pietermaritzburg, 29.01.1997.

[248] Interview of cllr Chotoo, Estcourt deputy-mayor and former representative of the TLC in the uThukela regional council's exco. In iLembe, "the ANC is making an input in the policy, at the level of the exco and sub-regional committees but only in exceptional cases because the IFP would not listen to us." Interview with Bantu "Selbi" Makhanya, ANC exco councillor, iLembe regional council, Durban, 10.09.1997.

[249] Reitzes M., 'Civil Society', p.107.

[250] "Municipalities need to be aware of the divisions within local communities, and seek to promote the participation of marginalised and excluded groups in community processes." Ministry of Constitutional Development, White Paper, p.20.

[251] Other groups should also be targeted by special policies in order for them to organise and articulate their own representation. Those are not characterised by gender or race [for an insight on the new role of local authorities in dealing with racial equality, see Ball W., Solomos J. (eds.), Race and Local Politics,

The Green Paper on Local Government emphasised on the necessity for local government to promote gender equality.[252] Local governments are invited to promote women's employment in conjunction with their affirmative action policy. In the White Paper, there is a particular emphasis on the participation of women and political representation of women in council because "the majority of the poor are women."[253] The Municipal Structures Bill makes the idea even more explicit by stating that "every party must seek to ensure that fifty per cent of the candidates on the party list are women and that women and men candidates are evenly distributed through the list."[254]

If the aim is laudable, it lacks practical backing in terms of strategy, implementation and monitoring criteria. Except for their employment as officials in the local administration which is rather easy to monitor, the only way women are 'promoted' at a decisional level is through their specific representation in local councils.[255] The ANC drew its party list for the local elections in order to accommodate 50% of women.[256] In addition, in rural areas, 10% of the seats were reserved for women. This is however not satisfactory because those women are first members of their political party and secondly representatives of the specific interests of women. Women in the regional councils were chosen by the political parties following their results in the elections. They are members of their party and are expected to toe the party line. In fact, it seems that the measure did nothing else but increase the representation of the IFP by 10%. In the agendas and minutes of the six regional councils visited by the researcher, over a period of 12 months, not a single item concerning specifically women's interests in rural areas was noticed. There would appear to be little purpose in having women sitting in a council chamber if it is not to design and apply particular policies aiming at easing the burden of rural life. One of the women representatives in uThungulu stated that her role was to "look at the development projects and look at the side of the women."[257] She has a delimited territory to take care more precisely of and she has to collaborate and work with PR councillors and amaKosi. For that task, she is dependent on the other councillors who have to call her if "they

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London, MacMillan, 1990] but by their extremely precarious economic situation. With women, farm workers and landless people are the most subject to arbitrary decisions and poverty. Local government is again considered as a key role player in improving their situation: "... local government is uniquely placed to... ensure that those who tend to be excluded and marginalised can become active and equal participants in community processes and the transformation of the settlements where they live." Ministry of Constitutional Development, White Paper, p.14.

[252] Ministry of Constitutional Development, Green Paper, pp.25-26.

[253] Ministry of Constitutional Development, White Paper, p.21.

[254] Ministry for Provincial Affairs and Constitutional Development, Local Government: Municipal Structures Bill, schedule 1, section 13.

[255] "Municipalities should take active steps to ensure that representatives from groups which tend to be marginalised (such as women, people with disabilities and the poor) are encouraged to stand for elections". Ibid, p.82.

[256] Madonsela T., 'Women and local government', in Graham P. (ed.), Governing at Local Level, A Resource for Community Leaders, Rondebosch, IDASA, 1995, p.69.

[257] Interview with cllr Dube, representative of the women interest group in the uThungulu regional council exco, Eshowe, 16.07.1997.

have a problem dealing specifically with women." She admits herself that she is not really taken seriously by the PR councillors.

The other benefit could have been to develop the assertiveness of women and change male councillors' attitude towards them. Unfortunately, the results have not been impressive in changing gender stereotypes. When the uThungulu regional council decided to offer a function for 'senior citizens' (amaKosi and senior councillors) all women councillors were requested "to assist with the catering arrangements of the day."[258]

Moreover, as one authority puts it:

> *... gender equality in local governance... means not only full participation in the political institutions and in executive decisions but also equal participation as citizens.*[259]

Madonsela sees access to information and accountability on the part of local government officials as key elements in "ensuring meaningful participation as citizens."[260] As far as the researcher is aware, no specific policy has been designed to promote women's participation in local government affairs, despite the presence of women in council. On this topic, South African municipalities might be interested in the English experience of women's committees. In Brighton in 1986, a full standing committee was set up 'to work on behalf of women in Brighton.'[261] The terms of reference of this committee were as follows:

- To ensure that a women's perspective is incorporated in [the council] work;
- To examine the council's work in terms of women's needs and views;
- To achieve equal opportunity for women in the council's employment.

CONCLUSION

Arnstein's 'ladder of citizen participation',[262] constructed with specific reference to her analysis of federal social programmes in the United States in the 1960s, is a valuable tool if one wants to evaluate the real power of citizens over the decision-making process. She identifies different degrees of citizen powers (citizenship control; delegation of power and partnership), different degrees of tokenism (placation, consultation and informing) and the level of non-participation (manipulation). What we seem to see in South Africa, is different degrees of tokenism if not manipulation. Public participation is most of the time limited to consultations about popular needs and concerns and never reaches the stages of project planning and evaluation.

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[258] uThungulu regional council, Minutes of the Special Exco, 07.02.1997.
[259] Madonsela T., 'Women and local government', p.69.
[260] Ibid., p.70.
[261] Gyford J., Citizens, Consumers and Councils, p.83.
[262] Arnstein S., 'A ladder of citizen participation in the USA', Journal of the Royal Town Planning Institute, Vol. 57 (4), 1971, pp.176-182.

Christianson is very critical of the capacity of former white local authorities to promote democracy:

> *Local government is very seldom democratic or responsive to the needs of the local electorate...* [They] *are extensively insulated from local opinion by... the sheer indifference of ordinary citizens to the activities of activities of local governments. In any case the choices made by local voters are usually determined by national factors - such as party allegiance - and not by local issues. Thus the outcome of local elections tend to be determined by small groups of people and in consequence local government is frequently dominated by an elite - usually comprised of local business interests or some small and highly committed interest group.*[263]

It is true that "the experience of the 1980s has created expectations that local government will offer 'the community' a form of power which is almost certainly unattainable."[264] But with too much emphasis on the 'people's power' and not enough on the legitimacy and the representivity of councillors, participation has become a buzz word without meaning. Tools were developed to channel the demands and needs of the citizens but this is not sufficient if the policy decisions are still being taken by officials, consultants or higher spheres of government.

In effect, there is a local administration but not a real local government in the KwaZulu-Natal rural areas. Most of the decisions taken are technocratic and involve neither communities nor their public representatives. Rural people are for the moment denied the kind of empowerment that enables citizens to improve the quality of their life and be part of the broader polity. The problem is not only that communication is difficult between local authorities and citizens. It is that the institution does not provide any help for rural and urban communities to organise. Especially in rural areas, the regional councils are "simply retreated RSCs, whose ethos, mode of operation and resources run against the new programmatic ideals of stimulating local level democracy in rural areas."[265]

Thus, the problem of participation and democracy is not mainly related to the question of how many councillors there should be per rural inhabitant. Local authorities have to deal with what kind of participation they want promoted.

Nobody is really trying to address the question of how to go beyond the exercise of needs identification and involve community and councillors in definition of strategies. This would be vital because:

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[263] Christianson D., Agent of Liberty or Cause of Chaos?, Johannesburg, Urban Foundation, 1992, p.1.
[264] Christianson D., Friedman S., Strong Local Government in South Africa: Exploring the Options, Johannesburg, Urban Foundation Research Report 2, March 1993, p.27.
[265] Gotz G., 'Local elections 1995', Indicator SA, Quarterly Report, Vol. 13 (1), Summer 1995, p.27.

Politics are essentially about the reconciliation of conflicting interests - not about achievement of perhaps unattainable and illusory perfect solutions.[266]

[266] Klein R., reviewing Max Nicholson's book The System, in The Observer, 24 September 1967 quoted in Hill D. M., Participating in Local Affairs, London, 1970, p.196.

Chapter 9
Local government as an agent of development?

South African constitutions have in the past treated, local government as a tier, the third tier of government, a creature of statute. The South African system of local government has never had any form of constitutional safeguards. As municipal powers did not "belong" to local authorities but were delegated to them by the National Assembly, any ordinary parliamentary session could change the entire system. For any initiative, local government was dependent on the approval of higher tiers. If, for example, the former JSBs wanted to assume new functions, even if listed in the Act which established them, they had to ask permission from the JEA.[1] From 1948, this tradition enabled central government to erode the powers of local authorities in an attempt to enforce apartheid,[2] and to control them very closely.

At the beginning of the 1990s, the prospect of the ANC taking the reins of the power did not augur well for the autonomy of local government. The ANC has always been accused of being a centralist party promoting a centralist state. This is derived from the communist model, on which the movement drew, but can also be explained by the necessity to create a unitary state where no vested interests would be able to use the argument of autonomy in order to protect their privileges. At the same time, the ANC recognised the need to render organs of government more responsible and accountable to the public. Cameron describes the:

> *... power struggle within the* [ANC] *between centralists and decentralists. While many within the party are committed to a system of local government, there are others in the party who are not. For example, Albie Sachs sees the role of local authorities as agents of the central government.*[3]

A centralist vision was developed by Kader Asmal in 1990. His solution, in order to strike the balance between a service closer to people and control by central government, was 'deconcentration' instead of 'decentralisation':

> *The ANC has rejected the concept of 'inherent' or 'original' powers for regional or local authorities by positing the indivisibility of South Africa but it recognises the need for relating governmental powers and decision-making closer to people. Administration must be moved to where people live and work but this will be done by the delegation of the*

[1] Interview with Mr Brian Edwards, NP MPP, former chairman of the Midlands Joint Services Board, Pietermaritzburg, 27.08.1997.
[2] Christianson D., Friedman S., Strong Local Government in South Africa: Exploring the Options, Johannesburg, Urban Foundation Research Report 2, March 1993, p.13.

powers of the central authority to subordinate administrative units for the purpose of more efficient administration and democratic participation.[4]

Asmal describes a deconcentration process in which the control of the administration and delivery is still ensured by the central government. No autonomy of decision is granted to the deconcentrated organs and the existence of smaller geographical units is used only for better control of the areas. Asmal went so far as to propose that the constitution should not entrench the notion of 'levels of government', because the recognition of the autonomy of regional and local government in constitutional terms would mean "the introduction of federalism in another form."[5]

Not only did the interim constitution of 1993[6] recognise local government as a tier on its own right but in 1996 Asmal, who had become national minister of Water Affairs and Forestry, found himself voting for one of the most progressive constitutions in the world when it comes to the rights of local government.[7] Local government in the new constitution is recognised as a 'sphere of government' - as opposed to 'tier' - which means that it is not subordinate to provincial or national government but that it has the right to govern on its own right,[8] and is equal in status to the other spheres.[9] Compared with the interim constitution where local government was a 'schedule 6 function'[10], local government is now neither a provincial nor a national function. In theory, as Boraine points out, the sphere does not depend any longer on the provincial ordinance and the list of delegated functions granted to the local sphere:

Municipalities are now called to take initiatives... In the current system, if a function is not given to you by the municipal ordinance passed at provincial level, you cannot do it. It is illegal to spend money on something you are not allowed to do... Now municipalities have the right

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[3] Cameron R., 'Participatory democracy: local option debates', Indicator SA, Vol. 8 (3), Winter 1991, p.19.

[4] Asmal K., 'Constitutional issues for a free South Africa: decentralisation of a unitary State', Transformation 13, 1990, p.84.

[5] Ibid., p.89.

[6] Act No. 200, 1993. See chapter 10, Section 174 (4) and (5).

[7] This is largely due to the efforts of Pravin Gordhan then chairperson of the Constitutional Affairs portfolio committee in the National Assembly.

[8] Chapter 3 and 7 of the constitution makes local government a distinct sphere of government which can "govern, on its own initiative, the local government affairs of its community." Constitution of the Republic of South Africa, chapter 7, section 151 (3)

[9] "The national or a provincial government may not compromise or impede a municipality's ability or right to exercise its powers or perform its functions." Ibid., chapter 7, section 151 (4).

[10] Local government was included in the list of the legislative competencies of provinces, subject to the provisions of chapter 10 of the interim constitution.

to take initiatives and respond to the community... This means that community groups... can interact with local authorities.[11]

But these provisions do not mean that local government can act independently from the other spheres. They are equal partners and must respect the constitutional status, institutions, powers and functions of government in the other spheres and "co-operate with one another in mutual trust and good faith"[12]

This new recognition of local government and the difficult balance that has to be struck in terms of inter-governmental relations, largely influence the new 'developmental' role attributed to the local sphere.

In every policy document, the adjective "developmental" can be found, invariably attached to local government as one of the main signs of its transformation. For instance, during a conference in Durban,[13] the term 'developmental' was defined as the promotion of:

- Economic growth;
- Social development;
- Integration and co-ordination of development (local government is an institution which is supposed to "co-ordinate the interventions of public and private investments"[14]);
- Democratic participation.

This list reveals that citizens and the other spheres of government, expect local government not only to ensure the provision of basic infrastructure to the poor but also to "manage the process of development."[15] The second task is much more difficult than the first. It has to do with facilitation and organisation of all available resources in order to achieve the vision spelt out by the council. It means 'empowerment' of the citizens by facilitating their employment (without which nobody would be able to pay their rates) as well as in terms of access to the process of decision-making. Indeed, in the minds of the policy makers, developmental local government is not only one which provides and delivers, which is "an instrument of social upliftment and economic development"[16], but also a body which democratises society and

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[11] Boraine A., 'Local government and the new constitution', INLOGOV Seminar Series 1/1996, May 1996, p.9.
[12] Constitution of the Republic of South Africa, chapter 3, section 41 (1)(h).
[13] Workshop organised by the Department of Local Government and Housing, Green Paper on Local Government, ICC, Durban, 28-29 October 1997.
[14] Ministry of Constitutional Development and Provincial Affairs and the White Paper Political Committee, White Paper on Local Government, Pretoria, March 1998, p.x.
[15] Christianson, Friedman, Strong Local Government, p.7.
[16] KwaZulu-Natal Provincial Cabinet, The Provincial Growth and Development Strategy for KwaZulu-Natal, approved by the Resolution No. 236 of 3 July 1996, p.27.

"empowers marginalised groups."[17] In this definition, development is intrinsically linked with democracy.

We have already seen[18] the extent to which local government has so far succeeded in its democratisation role. What needs to be evaluated now, is the capacity of the local sphere to provide or promote service delivery and encourage economic development.

1 - Development as the provision of public services

1.1 - The direct provision

The first role of local government, according to the campaign themes of all parties, is the direct delivery of public services and facilities. Local government is a way of "social upliftment."[19] Councillors' electoral mandates and the resources of the municipal administrations which they command, empower them primarily to deliver services and maintain existing infrastructure. Local government is here to 'deliver'.

1.1.1 - A problem of prioritisation

1.1.1.1 - Prioritisation of the utilisation of the council's funds

The local authorities have the task of using their capital expenditure to upgrade and provide basic services to the most needy[20] or newly integrated entities. The geographical area where the projects must take place is clear. In all the TLCs which have integrated black and Indian populations, the capital expenditure, apart from a fraction already allocated during the previous years[21] or used to maintain the services in the former white areas, is invested in the provision of services to the townships. For example, in the Pietermaritzburg 1997/1998 budget,

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[17] Ministry of Constitutional Development, White Paper, p.x.

[18] See chapter 8.

[19] Sinnett P., 'Local government financing and economic development in South Africa', Reddy P. S., Perspectives on Local Government Management and Development in Africa, Durban, Department of Public Administration, UDW, January 1995, p.40.

[20] For example, in a policy document about financing policy, guidelines and procedures for 1997/98, the uMzinyathi regional council states that "a financing policy should aim to satisfy the objectives and principles prescribed by the KwaZulu and Natal Joint Services Act, 84 of 1990." The Section 16(7) of the Act indicates that "in determining the priorities in connection with the utilisation of funds, the council shall give preference to the establishment, improvement and maintenance of infrastructural services and infrastructural facilities in areas where the greatest need exist."

[21] It is sometimes difficult for councillors to change allocation in the budgets. In previous years, local councils have committed money to begin projects which have still to be completed. In addition, the operating budget is fixed and offers very little opportunity to fund new services.

the capital expenditure (R281,5 million) was allocated to bulk infrastructure and housing in the new 'suburbs'.[22] However, the content of the activities is less easy to define and only a few local authorities, have a clear policy when it comes to prioritisation.

This is particularly striking in regional councils, which do not have any clear strategies at all. The system of prioritisation used by uMzinyathi and uThukela regional councils comes from the time of JSBs. They explicitly refer to Abraham Maslow's 'hierarchy of needs'[23] in which purported universal needs are arranged in descending order of importance. The only changes introduced by the uMzinyathi council since the elections to this scheme is that the percentage for each type of needs has slightly evolved. The different parts of the triangle of needs[24] are:

- At the top, 'status' expenditures (dedicated to stadiums, swimming pools, library);
- In the middle of the triangle, socio-economic spending (sport fields, bus routes, recreation facilities, community halls);
- 'Security' (housing sites, roads, street electricity, storm water drainage, informal upgrading);
- At the bottom - the largest part of the triangle - 'survival' spending (water supply, sewerage disposal, health facilities, refuse removal). [25]

The only CEO which openly rejects the Maslow triangle of needs introduced by the JSB administrations - with the Zululand regional council whose lack of funds makes it rather academic to embark on a prioritisation exercise anyway - is uThungulu because "we look wider than that, we have to look at the needs now but also in the future."[26] Theirs is the only regional council CEO who has envisaged the use of the integrated development plan (cf. below) as a way of prioritising the future projects. The other regional councils loosely apply the Maslow criteria. This means that councillors do not have any criteria to select the projects to be financed. Those do not enter into any global and long term strategy and their impact has to be assessed individually on the basis of their possible local results.

For example, the iNdlovu regional council does not seem to have a specific policy when it comes to funding projects. In theory, the application process is clear and the same scheme has

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[22] Natal Witness, 21.081997. See also the charts of the Durban metropolitan budget for 1997/1998, annexe XXVIII.

[23] Abraham Maslow is an American psychologist. He wrote, among others, The Psychology of Science: A Reconnaissance, New York, Harper and Row, 1966; Eupsychian Management: A Journal, Homewood, Irwin, 1965; Motivation and Personality, New York, Harper, 1954; Toward a Psychology of Being, New York, Van Nostrand Reinhold, 1968 (2nd edition).

[24] Cf. uThukela Maslow triangle of needs in annexe XXIX.

[25] In a policy document (1997) from the uMzinyathi regional council, about financing policy, guidelines and procedures for 1997/98, the split proposed is 5% for status, 25% for socio-economical needs, 30% for security and 40% for survival. uMzinyathi regional council, Minutes of the Exco, 31.10.1996.

[26] Interview with Mr A. M. B. Creighton, chief executive officer of the uThungulu regional council, Richards Bay, 18.07.1997.

been adopted by all the regional councils. The councillors are responsible for handing over application forms to the 'community'. They, then, bring them back to the technical departments which should review them, obtain additional information and make recommendations to the sub-regional committees. The technical departments collate the proposals made by the sub-regional committees, act in a moderating role "as may be necessary to limit total allocation to funds available" and submit their proposals to the exco, then to the full council and then to the province.[27] However in iNdlovu, the reality of the first prioritisation process was rather different. Some claim that the councillors are not serious about the process and too often, they tend to distribute as many application forms as possible with the hope that the money will flow to "their" areas. While some communities do not know about the prioritisation process because no councillor lives among them, the chairman of the iNdlovu regional council complained about the fact that:

> *Some councillors take a lot of the application forms and bring them back for funding. Last year, one councillor alone brought back 400 application forms. But we do not have the money. So this year, councillors will only be allowed to take two or three forms. That will also enable councillors to prioritise the projects*[28]

Due to the number of applications (1062) submitted to the iNdlovu administration in 1997, and the lack of information given by the officials to councillors during the prioritisation meeting,[29] it is difficult to see how the councillors could have applied the scientific criteria they were claiming to use.[30] In fact, the councillors were judging the applications according to some "political criteria" defined by the exco in November 1996 and which state that:

- Priority should be given to areas with greatest needs;
- No funding should be allowed for welfare organisations;
- No funds for maintenance;
- No funds for NGOs;
- "Certain limits" for the schools;
- No funds for security purposes.

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[27] Technical prioritisation meeting for the iNdlovu regional , 11.02.1997. The researcher was present.

[28] Full council meeting of iNdlovu regional council, Pietermaritzburg, 15.08.1997. The researcher was present.

[29] During the technical prioritisation meeting, officials distributed to councillors a table which was a list of projects. It mentioned information such as the details of applicant, the cost of the project, some very vague criteria about 'community participation', the type of beneficiaries, existence of other funding, and the local capacity for maintenance. Councillors could not have for example any idea about the number of beneficiaries.

[30] According to the document presenting the list of projects, the applications should have been considered on a "scientific basis [but we recommend] that the humanistic and social aspect also be taken into

As one can see, these "criteria" did not give any guidance to local councillors on how to rank the activities to fund, in order of priority. The matter was resolved in camera, between the caucuses,[31] which shows the lack of transparency of the system.

iLembe councillors realised the limits of their exercise of prioritisation and the exco resolved that the standing committees delay the distribution of project application forms to the development committees for 1998/1999 until the prioritisation strategy was resolved by the exco.[32]

Councillors if they are serious about integrated development should not use their own funds to finance projects without applying any criteria. Especially in the rural areas where the needs are so important and the territory so vast, the use of scarce resources should not be permitted to be wasted on projects such as fencing of schools, or crèches. The word "waste" is chosen not because of the nature of the activities (the need for these projects cannot be denied) but because of their isolation from other initiatives. The construction of a crèche for example has much more impact in an area targeted by the creation of new economic activities A woman is more likely to use the facility if she is employed than not. This is what minister Moosa meant when he criticised rural local government during a conference in KwaZulu-Natal. He stated that the only activity of regional councils "is only to channel small amounts of money for a few projects. This is not developmental."[33]

1.1.1.2 - Management of external funds

Local authorities do not only rely on their own funds in order to provide services in their area of jurisdiction. They also receive grants to subsidise the capital costs of investment in municipal infrastructure. This type of grant has been revised recently in order to make the process leaner. The previous system was too complicated to allow local authorities to plan ahead.[34] Inevitably, problems have been experienced concerning double subsidisation and lack of clarity over which programme was funding what activity.

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consideration when prioritising projects." It goes without saying that the terms "scientific", "human" and "social" were not defined.

[31] Interview with an iNdlovu regional councillor

[32] iLembe regional council, Agenda of the Council, 04.11.1997.

[33] Workshop organised by the Department of Local Government and Housing, Green Paper on Local Government, ICC, Durban, 28-29 October 1997.

[34] The ministry of Provincial Affairs and Constitutional Development had developed different programmes aiming at funding projects of municipal infrastructure in urban and dense rural settlements. Such programmes include

- Municipal infrastructure investment framework (MIIF). Its aim was to ensure that all households had access to basic services within ten years. The central government intervened indirectly (mobilising loan finance, building local institutional capacity, promoting partnership) and directly, by subsidising capital costs of the infrastructure for a basic level of services for all low income households;

A single funding channel, the Consolidated Municipal Infrastructure Programme (CMIP) was created in 1996/97.[35] It integrates all the existing funding programmes for municipal infrastructures into a single funding channel with conditional grants to municipalities based on standardised national criteria.[36] If the Department of Constitutional Development (DCD) controls the CMIP, it also oversees the administration and allocation of funds to provinces as well as monitoring compliance with criteria.[37] Before, the provinces had a role in the allocation of funds but transfers were conditional, based on standardised criteria.[38] The principles for the funding of CMIP projects are, affordability of services, setting up of standards, proper planning to eradicate the apartheid design, development of strategic plans.[39] This should ensure that the multiplicity of overlapping criteria applied for funding are harmonised.

A second type of inter-governmental grant (IGG) is allocated to local authorities, this time to support their operating budgets.[40] This type of transfer poses major problems, especially because the transfers are insufficient. The White Paper admits that "the grant system is inconsistent, inequitable... and unpredictable."[41] For the moment, local authorities receive:

- IGG for operating expenditures (bridging finance). Because this transfer is still based on the apartheid-era bridging finance to former BLAs:
    - the amount of money is insufficient. In 1996/97 and 1997/989, R800 million (each year) was spent on bridging finance for the whole country.
    - only a handful of municipalities receive this type of allocation.
- Support for local authorities which have integrated R293 towns.[42] In the Durban metropolitan area, over R270 million was provided in 1996/97 to assist local authorities' operational expenditures in KwaMashu, Ntuzuma, Inanda, KwaMakutha

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- Municipal infrastructure extension programme (MIEP). This was funded by the RDP fund.
- Bulk and Connector Infrastructure Grant Programme (BCIG). This was initiated by the RDP Office in 1995. The funds were divided between the provinces according to the formula used to determine housing subsidy allocations. The Provincial Housing Boards determined the allocation to the municipalities.

See Botha R., Memorandum about Developments at Local Government Level, DBSA Institutional Department, Midrand, Unpublished paper, August 1996.

[35] Ministry of Constitutional Development, White Paper, p.119.

[36] MINMEC, Report of the meeting, 16 July 1996.

[37] Botha R., Memorandum about Developments.

[38] Financial and Fiscal Commission, Local Government in a System of Intergovernmental Fiscal Relations in South Africa. A Discussion Document, Midrand, FFC, 25.07.1997, p.27.

[39] Ronnie R., 'Local government, can it deliver?', in South African Labour Bulletin, Vol. 20, No. 6, December 1996, p.16.

[40] Ministry of Constitutional Development, White Paper, p.119.

[41] Ibid.

[42] Financial and Fiscal Commission, Local Government, p.17.

and Clermont/KwaDebeka.[43] However, many interviewees were worried by the fact that this grant will be phased out over a period of five years and that afterwards, local authorities are supposed to assume the cost of the integration.[44] For example, the province helps the Richards Bay TLC with R22 million a year but the municipality is "starting to make provision on the budget, because of the phasing out."[45]

The solution to the confusion about the transfers for operational costs is the determination of the 'equitable share of revenue' to which local government is entitled by the constitution. Its chapter 13 states that an Act of Parliament must provide for:

- The equitable division of revenue raised nationally among the national, provincial and local spheres of government;
- The determination of each province's equitable share of the provincial share of the revenue;
- Any other allocations to provinces, local government or municipalities from the national government's share of revenue, and any conditions on which those allocations may be made.[46]

The notion of 'equitable share of revenue' is clarified in the White Paper on Local Government and in a discussion document published by the Financial and Fiscal Commission.[47] Both documents emphasise that this share, allocated for first time during the 1998/99 fiscal year, will have to be directed "primarily at subsidising the provision of basic services."[48] The grant will only:

> ... *cover the funds for operating costs...* [It] *should enable all municipalities to provide a basic level of services to low-income households in their areas of jurisdiction. It will be formula-based and will be allocated directly from the central fiscus to municipalities.*[49]

It is interesting to note that the principle of allocation of the two types of grant described, (whether provided directly by the central government or through the provincial Department of Local Government and Housing), does not seem to be driven by secret political agendas. Most

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[43] Miller P., 'Funding of the Metro council', Speech at Durban chamber of commerce and industry forum luncheon, 30.07.1996.
[44] Interview with Mr Gibson, City of Durban, Office of the City Treasurer, 24.04.1997.
[45] Interview with Mr Vosloo, assistant town secretary, Richards Bay TLC, Richards Bay, 16.07.1997.
[46] Constitution of the Republic of South Africa, chapter 13, section 214 (1).
[47] The Financial and Fiscal Commission is an independent body established by the constitution, with a view to make recommendations on financial and fiscal issues to "parliament, provincial legislatures and any other authorities determined by national legislation." Constitution of the Republic of South Africa, chapter 13, section 220.
[48] Ministry of Constitutional Development, White Paper, p.112.

of the local officials interviewed complained because of the insufficient amount of the subsidy[50] but nobody mentioned any political interference in the allocation of the inter-governmental grants. The CEO of the Inner West local council stated that he had a very good relationship with MEC Miller's department and that there was no conflict with the other spheres of government. "We receive a third of the budget of the Provincial Housing Board [just for the Inner West]. We benefit also from programmes such as the Bulk and Connector Infrastructure Grant [R20 million which is a lot]."[51] There is a common feeling that if a local authority is persevering, whether it is dominated by an IFP or ANC council, it will be granted some money for its projects.

So the two main challenges for local authorities in the area of direct service delivery are insufficient funds granted to them by the other spheres of government and a lack of prioritisation and global vision on how to spend their capital budget.

In addition, councils are unable to adopt a clear strategy on how the delivery should proceed.

1.1.2 - How to deliver?

Unfortunately, the issue of providing public services by alternatives to the direct delivery by municipal departments, has often provoked heated debates and the uncompromising opposition of the unions and of most of the councillors.[52] As Prof. Shabalala points out, part of the conflict comes from the perception that when government is not the direct producer, it is running away from its duties.

> *The transformation of local government service delivery should be to capacitate municipalities to deliver efficient services.* [53]

But the idea that the role of government today, is to set up a framework and standards and let some more efficient actors operate has come to dominate global discourse on local

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[49] Ibid., p.120.

[50] The interviewees understood the provincial financial constraints. According to the Estcourt town clerk: "The TLC receives R270 000 per month for electricity, water and maintenance but the electricity costs alone amount to R210 000 to the TLC.. But the province is bound by budget." Interview with Mr B. P. Marais, town clerk of Estcourt, Estcourt, 06.08.1997.

[51] Interview with Hercules Hattingh, CEO of the Inner West local council, Pinetown, 06.06.1997.

[52] The ANC councillors interviewed were against any agreement with the private sector. The DP and NP councillors were in favour: "The best way to deliver is to cut down on local government and to privatise some departments... but ANC councillors will never allow the privatisation." Interview with cllr D. A. Reyneke, NP PR councillor, exco member and leader of the NP caucus of the Ladysmith/Emnambithi council, Ladysmith, 21.08.1997.

[53] South African Municipal Workers' Union, Green Paper on Local Government, An Initial Response from SAMWU, 1997, p.11.

government.[54] Besides, there are numerous options that a council can use, less binding than concession or privatisation (which are the most contentious alternatives), whereby a municipality can define its own conditions of management and keep control over the service.[55]

Councillors and officials do not envisage the different types of partnership they can develop with the private sector and equate any kind of public-private partnership (PPP) with privatisation and loss of control. Mandeni's town clerk for example, when asked about possible public-private partnerships in the TLC, points out that "there would be a problem of continuity of service. Privatisation would be too dangerous. The unions are strong here and the councillors do not want to tackle the subject."[56]

During a conference on alternative means of service delivery,[57] the reaction from the floor (composed by councillors from all over the country) was one of concern. They questioned:

- The capacity of the private sector to retain the workers employed by the public sector;
- The necessity of spending large sums of money on consultants' fees to study the best system;
- The possibility of corruption in awarding the contracts;
- The criteria used to measure efficiency and effectiveness in the public and private sector.

The concession contract to a French company for the extension of the water and sanitation services in the Dolphin Coast TLC saw the union leaders up in arms. The South African Municipal Workers' Union (SAMWU) rejected the privatisation because it went against a ruling by the South African Local Government Bargaining Council which stated that the public sector was the preferred provider of services.[58] On the principle, SAMWU general secretary Roger Ronnie stated that the union "cannot accept that the answer is to run local government according to strict business principles and to bring in the private sector."[59] He asked instead for

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[54] Intervention of Prof. Shabalala, during the Institute for International Relations' seminar, The 1997 Local Government Summit, Midrand, 18 and 19 June 1997.

[55] Alternative ways of public-private partnership include:

- The management contract which allows a private organisation to take over the management of a service to specified standards by using staff, equipment etc. of a public authority. The public sector is responsible for financing the fixed capital and working capital.
- The leasing is a contract whereby the private sector leases working capital and the hired equipment belong still to the public sector.
- The concession gives the right to a private operator to perform a specific function for a certain period. The private sector pay for everything but the ownership still belongs to the public sector.

[56] Interview with Mr Press, town clerk of Mandeni TLC, Mandeni, 14.07.1997.

[57] Institute for International Relations' seminar, The 1997 Local Government Summit, Midrand, 18 and 19 June 1997.

[58] Sunday Independent, 10.05.1998

[59] Ronnie R., 'Local government, can it deliver?', South African Labour Bulletin, p.16.

locating a wider range of services at local government level (unemployment fund management, social welfare and education).[60]

By contrast, Valli Moosa, commenting on the Dolphin Coast problem, emphasised that public-private partnerships of this nature were "critical to ensure that local government can get on with governing."[61] The central government, following the precepts of the World Bank,[62] tries to develop partnerships between local authorities and the private sector. Deputy-president Mbeki has encouraged the involvement of the private sector:

> *To deliver municipal services to everyone within an urban local authority at an affordable level will cost us in the region of R61 billion over the next ten years. The resources of central government and provincial government will not be able to cover much more than half this. The shortfall will be made up by local authorities and the private sector.*[63]

Several national programmes are in place to favour these partnerships:

- The aim of the pilot programme called Municipal Private-Public Partnerships (MPPPs) is to promote the development of local government capacity in order to leverage private sector financing and technical skills for the provision of municipal infrastructure and services (programme managed by Department of Constitutional Development);
- A project preparation facility is associated with the MPPP, and is administered by the DBSA to provide assistance and capacity building support to local authorities to prepare business plans for public-private partnerships;[64]
- The central government set aside R50-million nationally to fund the Consolidated Municipal Infrastructure Programme Private Equity. In each province, a pilot project was chosen aiming at encouraging the provision and operation of municipal infrastructure in partnership with a private enterprise.[65]

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[60] Ibid., p.20.
[61] The Mercury, 06.05.1998.
[62] The World Bank advocates, amongst others, the privatisation of fire protection, street lightning, garbage collection and disposal, urban planning, land provision, sewerage and sanitation, recreation, food provision, urban public transportation, housing, water provision. See for example, Economic Development Institute and The Africa Technical Department of the World Bank, Strengthening Local Governments in sub-Saharan Africa, EDI Policy Seminar Report, No. 21, 1989.
[63] The Mercury, 02.04.1996.
[64] Hlahla M., 'Private participation in the financing and operation of municipal infrastructure and services', Paper delivered at the Institute for International Relations' conference, The 1997 Local Government Summit, Midrand, 18-19 June 1997, p.2.
[65] Letter from provincial Department of Local Government and Housing (dated 02.08.1996), Ladysmith transitional local council, Agenda of the Exco, 14.08.1996.

But despite these incentives, local authorities are still promoting a costly and sometimes inefficient (because of a lack of technical and financial capacity) control of service delivery, through its direct provision by the municipality.

Local authorities are not only asked to decide over the type of partnership they would like to develop with the private sector. Local government is increasingly put in the difficult position of implementing certain projects on an agency basis for other spheres of government.

1.1.3 - New functions delegated by other spheres

Municipalities receive agency payment from the provincial government to render services. This enables them to assume different functions - depending on the province - such as provincial health services[66], ambulance and fire fighting services[67]. This type of transfer does not really enhance the autonomy of the local sphere but transforms it into an implementing agency. This however does not harm local authorities except when the new local mandates are unfunded, i.e. not backed by proper financial transfer from provincial or national government.

In the immediate aftermath of the elections, councillors were adamant that the province should give them new functions. They acted as if more functions meant more credibility. uThukela regional councillors asked the "province to delegate other relevant provincial duties to be handled by the regional council."[68] MEC Miller warned local councils and asked them to be careful of not taking on new responsibilities they could not afford. He cautioned that unless they were careful in their spending, they ran the risk of a "ratepayers' revolt":

> *I find it necessary to warn local authorities in general and in particular newly elected councils, that in their enthusiasm to establish themselves as an autonomous level of government and in the headlong rush by new politicians in councils to take on new functions, they must ask the question - how will they pay for services they propose to render?*[69]

Local authorities might indeed be wise to stop thinking that a measure of their autonomy is the number of functions they exercise by themselves. Section 156 (4) of the constitution,[70] has not been used by the provincial and national spheres to the benefit of local government but in

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[66] The metropolitan council only receives two types of transfer and one of them is for service-related functions such as health. Interview with Mr Gibson, City of Durban, Office of the City Treasurer, 24.04.1997.

[67] The Inner West local council receives money to perform health, fire services and housing facilitation functions. Interview with Hercules Hattingh, CEO of the Inner West local council, Pinetown, 06.06.1997.

[68] uThukela regional council, Minutes of the Exco, 23.10.1996.

[69] The Mercury, 02.10.1996.

[70] This section states that national and provincial governments are under obligation, not choice, to assign or delegate further powers to local government if the function is best performed at local level and if the local authority has the capacity to fulfil the function.

order to 'dump' some of their functions to municipalities without looking at the problem of capacity, both technical and financial. According to the Green Paper, national and provincial governments are permitted to devolve powers and functions to local government. At present, several national departments are in the process of 'decentralising' functions to local government. These include housing, safety and security, health and transport. One problem is that the local authorities have neither the skill nor the money to fulfil their new roles.

An example concerns the Department of Transport. The White Paper stresses as a positive move the recognition of local authorities as the main source of decision when it comes to planning. However, the department envisages that rural district councils will "provide... subsidised services and capital infrastructure development in line with national and provincial guidelines."[71] This is totally unrealistic for the moment, unless the local authorities receive adequate funding.

Some local authorities are handling housing functions as the implementing agent of the province. This is the case in the Ladysmith/Emnambithi TLC but the problem is often that the local authorities do not have the capacity to deal with the task. According to councillor Reyneke:

> *... local government should not accept functions such as housing, which should be handled at a national level. For the moment, we do it as agent of the province but we encounter a lot of problems. This is too complicated to handle.*[72]

It must be clear for local authorities that when they ask for more functions to be devolved to them, they risk being financially unable to assume them. In addition, they tend to become mere agents of the province or the central government, because they receive the money to fulfil a certain function with no capacity to define the policy underlying the delivery.

Instead of asking for more and more functions to be carried out directly by them, they should assert their role as the legitimate political head which should decide for the future of their area. This means that instead of fighting with the other spheres over who should deliver, municipalities would be wiser to enter into a more demanding dialogue with their partners - the other spheres but also the private sector - on the problem of political authority over projects and planning.

A developmental local government is not only one which delivers or favours direct delivery. It is one which is able to be the authority responsible for the harmonious development

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[71] Ministry of Constitutional Development, White Paper, p.71.
[72] Interview with cllr D. A. Reyneke, NP PR councillor, exco member and leader of the NP caucus of the Ladysmith/Emnambithi council, Ladysmith, 21.08.1997.

of the whole area. 'Authority' refers to a body which is taking the political decisions, which is able to impose its vision[73] of what should be the future of the area under its jurisdiction and to ensure that all the partners are striving in the same direction.

1.2 - Forging relationships with the public sector

Increasingly, the notion of a "developmental municipality" refers to more than the direct provision of services or funding of projects. Sometimes, the two are even opposed. Andrew Boraine notes that "municipalities can now respond to needs of their local communities. They are encouraged to become developmental agencies rather than implementation agencies."[74]

1.2.1 - Co-ordination is the main task for a developmental municipality

In rural areas, except for the small projects funded by the regional councils on an application basis, local government has no direct impact on the service provision. The list of functions of the former JSBs which were taken over by the regional councils is long.[75] However, due to a lack of funds, regional councils, like the JSBs before them, assume only a few of the listed duties.[76] If one judges local government according to its capacity to deliver in rural areas, it is true to state that it "is not a real factor of local development, only another service provider amongst others."[77] For example, in the uThukela regional council, public transport is not provided directly by the local authority. Concerning fire fighting, it is the largest TLCs in the region which render the service outside their areas and the RC pays the

[73] However, this vision should be coherent with national and provincial strategies

[74] Boraine, 'Local government and the new constitution', p.15.

[75] Cf. annexe XXX, the list of functions taken over by the iNdlovu regional council.

[76] For example, the Zululand regional council is responsible for: land usage and planning; transport planning; refuse dumps; fire brigade services; recreation facilities; promotion of tourism; infrastructures and facilities; other regional functions (training of personnel of local bodies; joint rendering for or on behalf of two or more bodies of municipal administration services). Zululand regional council, Agenda of the Council, 21.08.1996. According to the former chairman of the Midlands JSB, "twenty-two functions were devolved to the JSB, but we did not take them all. In the Midlands, we were entitled to take over from Umgeni Water but their finances were much stronger than ours. We did not take over the electricity, the abattoirs, the market. The JSB was more a catalyst for funding and assistance... We did a lot of planning for transport. We did take over the refuse dumps in small towns, the ambulance and fire service as well as sport fields, tourism... What we were really involved in was the item entitled 'establishment, improvement and maintenance of other infrastructural services and facilities' (rural schools and their water supply, toilets fencing)." Interview with Mr Brian Edwards, NP MPP, former chairman of the Midlands Joint Services Board, Pietermaritzburg, 27.08.1997.

[77] McIntosh A, 'The emerging local government system in KwaZulu-Natal's rural areas: a case study', Paper delivered during the conference organised by the Fiscal and Financial Commission Designing Local Government for South Africa: Structures, Functions and Fiscal Options, 23-25 July 1997, p.3.

costs. "The whole idea is for the regional council to act as a facilitator, to find private operators that could provide the service."[78]

As the Green Paper points out, one of the key aspects of a developmental local government is its capacity to "work closely with other spheres of government and service providers and play an active integrating and co-ordinating role."[79] Numerous policy documents seem to consider that the local sphere is the primary geographical level of co-ordination and planning. For the chief director of the Department of Constitutional Development, local authorities, with the communities they service, have the "primary responsibility for determining the nature, strategic location, service levels and financing of any municipal infrastructure project."[80]

Councillors also feel strongly that they have a role to play in the co-ordination of service provision, because they are the legitimate representatives of the area. The iNdlovu regional council was the first rural local authority in KwaZulu-Natal to adopt a policy document describing its global strategy for the region. This is an ambitious document which recommends that the new regional councils should be the basis for:

> *... organising the deployment of provincial resources to ensure necessary co-ordination between local government and province at a regional scale. A common spatial framework and an adequately resourced public sector will be central to the successful implementation of the outline strategies detailed in this report.*[81]

In urban areas, the image of direct service provider corresponds less and less to the reality and the new emphasis on the local authorities' co-ordinating role worries certain academics. In a newspaper article entitled 'Ripping the heart out of local power'[82], Swilling expresses alarm at the multiplication of policies which are intended to "dismantle local authorities." He quoted as one of his main examples the Water Boards which, according to him, are "stripping local authorities' capacity by taking away bulk water functions." According to this academic, the danger is that the service provision will not longer:

> *... take place within an integrated framework but according to the business plans of each provider. Communities will no longer be able to hold local authorities accountable for service delivery, they'll have to*

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[78] Interview with Mr Cassie Rautenbach, chief executive officer of the uThukela regional council, Ladysmith, 27.09.1996.
[79] Ministry of Constitutional Development and Provincial Affairs and the White Paper Political Committee, Green Paper on Local Government, Pretoria, October 1997, p.20.
[80] Crispian Olver, Business Day, 21.10.1996.
[81] SWK Planning and development, Outline Strategies for the Growth and Development of the Midlands Region. Final Draft Report, Durban, SWK, February 1997, p.55.
[82] Mail and Guardian, 15-21.03.1996.

deal with a multiplicity of bureaucracies governed by different rules and cultures. It's a removal of key services from democratic control.[83]

Because he is too much attached to the classical vision of a local government which directly provides the services, Swilling cannot differentiate direct provision and control over the process. In fact, local authorities do not have the financial or technical capacity to ensure that the water needs of all South Africans are met. They cannot ensure that services are provided equitably and maintained and that consumers are fairly and efficiently served.[84] The intervention of the Water Affairs ministry does not mean that central government is infringing on the constitutional rights of local government. It simply means that the ministry is fulfilling its own role by "ensuring that service providers [water boards] are able to do their job."[85]

However, one should not be too naive about the issue. There is obviously the danger that national or provincial government, by delivering public services themselves or through agencies, might undermine the legitimacy of local authorities and prevent coherent development. But one has to state clearly that this will not be the result of the 'centralist tendencies' of the other spheres alone. Local government has an important responsibility in defending its newly acquired rights and will be to blame if it fails.

Some positive signs can be detected among the departments and ministries, which seem to prove their good will in establishing a co-operative relationship with local government. Certain line ministries have acknowledged the political legitimacy of local authorities and seem ready to recognise them as a main source of decision.

- The Department of Transport for example, "has proposed a bill which envisages the designation of municipalities and/or combinations of municipalities as transport authorities." [86] They will develop transport plan and policies, implement, maintain and manage the transport programmes.
- On the same pattern, the DWAF:

  ... *has committed itself to a systematic institution-building programme at the local government level to ensure local government involvement in* [its] *programme.*[87]

- The Department of Health recognises that municipalities are legitimate to "integrate services currently rendered by multiple authorities... and to co-ordinate those vertically

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[83] Ibid.

[84] Umgeni Water has taken over the management of the water sector in the Ixopo TLC which "should ease the capacity of the town." Interviews conducted with the town clerks of all the TLCs in the iNdlovu regional council by SWK for the Midlands Regional Planning Framework in May 1996 (in appendix one, "Key issues raised in the consultation process").

[85] Answer to Swilling's article from the deputy-director general of the Department of Water Affairs and Forestry, Mr Muller. Mail and Guardian, 29.03/3.04.1996.

[86] Ministry of Constitutional Development, White Paper, p.47.

split services which impact upon health quality."[88] Local government already provides personal (promotive and preventive) and non-personal (environmental) health services, which include the supply of potable water, sewage disposal and refuse removal. Environmental health is regulated by health inspectors who are employed by local authorities. They are also responsible for comprehensive primary health care.[89] With the development of the proposed 'district health system', all primary health care services will be integrated to ensure cost-effective and appropriate delivery of services.[90]

- The KwaZulu-Natal Department of Agriculture asked the iNdlovu regional council to participate in a Joint Planning committee of the provincial state land steering committee together with the provincial directorate of the Department of Land Affairs, the Departments of Traditional and Environmental Affairs and Local Government and Housing. The aim is to develop a policy to settle black farmers on state land suitable for agricultural purposes.[91]

Councillors are also taking the initiatives to promote good relations with service providers. They call on them to contribute to their exco meetings[92] and organise workshops where a dialogue can be established.[93] The regional councils also use the sub-regional level to promote co-ordination. For example, when the three Zululand sub-regions were inaugurated in May 1997, co-option of external members[94] with observer status was decided upon. At the regional level, at least two regional councils have developed the idea of a service providers forum. In iNdlovu, the plans are to set up one in order to prevent any other stakeholders infringing on the RC's work.[95] It will gather the Water Affairs Department, province, Eskom and Umgeni Water

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[87] Ibid., p.51.
[88] Ibid., p.46.
[89] Primary health care comprises health education, nutrition, family planning, immunisation, Aids education, maternal and child health, mental health, provision of essential drugs, health-related water and sanitation services, environmental health services.
[90] South African Communication Services, South Africa Year Book, 1996, p.328.
[91] iNdlovu regional council, Agenda of the Exco, 25.02.1997.
[92] Councillors from the uThukela and iNdlovu regional councils called for example Eskom and Telkom to address their exco on their involvement in rural areas. See uThukela regional council, Minutes of the Exco, 07.02.1997 and iNdlovu regional council, Agenda of the Exco, 10.041997. However, the expectations on both sides often seem to be that the partner will provide funds for their own project. When the Department of Education presented the state of education development in the Pietermaritzburg region to the iNdlovu regional councillors, it stressed the financial constraints it had to face and needs of assistance from the council. Executive committee meeting of the iNdlovu regional council, attended by the researcher, 19.11.1996.
[93] Following the report on the co-ordination of development in the Zululand region (report from Dr M. Taljaard), a workshop was held with service providers (Eskom, Telkom, Mhlatuze Water, DWAF, Health, Education, Land Affairs and Local Government and Housing). Zululand regional council, Agenda of the Exco, 23.06.1997.
[94] In at least one of the three committees, Mhlatuze Water, the Department of Local Government and Housing, the DWAF, Department of Transport, Department of Health and the Department of Public Works, are present. Zululand regional council, Agenda of the Council, 12.06.1997.
[95] Interview of an iNdlovu regional councillor.

Board in order to work on the planning and co-ordinating of the projects. uThukela regional council is the most advanced in the process The first meeting of this forum took place in August 1997.[96]

However, local government is still by-passed by other spheres of government. The progressive discourse of the Ministry of Provincial Affairs and Constitutional Development, has not yet been totally integrated by the other national and provincial ministries. The fact that local government is recognised as a sphere does not seem to bear any real meaning for some officials and politicians.

1.2.2 - Local government is being by-passed

There is an instruction in the new constitution for local government to participate in national and provincial development programmes. While Boraine interprets this as a two-way process,[97] there is a battle over which logic (national, provincial or local) should prevail in terms of planning. Local government is by-passed, because it is still considered as an implementing agent of higher tiers. It is still the "arms and feet"[98] of higher levels of government and not a source of authority in its own right. This attitude was illustrated by an interview given to a national radio broadcaster by the deputy-director of the Public Works Department. This official speaking about the "community-based projects" which her ministry was ready to fund in rural areas, mentioned the use of "NGOs to identify projects but also government agencies such as district councils and transitional representative councils."[99] Talking about "government agencies" when one refers to a "sphere of government" is not politically correct but is consistent with national ministries' practice of setting up programmes which impact on local governments without them being involved in their definition.

Another example of the contempt with which local government is treated is the speech delivered to the iLembe regional councillors by the KwaZulu-Natal MEC for Agriculture. MEC Singh, who had come to greet the council,[100] emphasised that regional council was a "tier of government because it comes after the province." He spoke of integrated rural development

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[96] The purpose of the first meeting was to exchange information between different service providers on the prioritisation process and exchange lists of projects for information. The representative of the Department of Local Government and Housing was adamant that there would be no veto power from the forum over the implementation of projects by the different departments. Service Providers workshop organised by the uThukela regional council, Ladysmith, 21.08.1997. The researcher was present.

[97] Boraine, 'Local government and the new constitution', p14.

[98] Jeff Radebe, Minister of Public Works, declared that local government is the "feet and hands of the RDP", (KwaZulu-Natal Development Summit, April 1996), quoted in Morris M, Barnes J., KwaZulu Natal's Rural Institutional Environment: its Impact on Local Service Delivery, Land and Agricultural Policy Centre, Working Paper 49, August 1996, p.20.

[99] The deputy-director Public Works interviewed on SA FM, 13.01.1998.

[100] iLembe council meeting, 04.11.1997.

plans, stressing his department's interaction with other departments without mentioning the regional councils. Even the Premier of KwaZulu-Natal, a politician more astute than Singh, is still using old metaphors to qualify local authorities. He said to the iNdlovu regional councillors that they were "the arms and legs of government" and asked "to bring the head [the province] and the arms and legs [local government] together."[101]

1.2.2.1 - A problem common to rural and urban areas

One of the main complaints of both rural and urban councillors is that the other spheres of government do not respect their authority.

The rural councillors are for the most part helpless in the face of the numerous actors intervening in their area of jurisdiction: "There is a lack of co-ordination between service providers. uThungulu should be the main planner but there are so many people who intervene that it is impossible."[102] An iNdlovu regional councillor expresses the same feeling:

> *There does not seem to be any institution that has an overview of what is happening in the regional council area. For example, the transport forums did not bother to speak to us and they are not liaising with us, whereas we also decide about roads. Duplication is a problem. There are a lot of good intentions but we need to co-ordinate, especially with government departments.*[103]

This can be explained by the fragmented way services were provided in rural areas during the JSB time and the difficulty today of overcoming these habits.[104]

The creation of JSBs in KwaZulu-Natal did not really change the fact that service provision was still controlled by higher tiers of government (centralisation) and that the different departments did not adopt a co-ordinated approach (fragmentation).[105] The homeland government and its line ministries such as the KwaZulu Public Works Department did not co-ordinate their projects with others. In Natal, provincial and national ministries, as well as Development and Services Boards and farmers' associations intervened in the field of

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[101] Speech of B. S. Ngubane in front of the iNdlovu regional council, 29.05.1997.
[102] Interview with cllr H. C. de Villiers, representative of Sizabantu Kwagithi Association in the exco of uThungulu regional council, Empangeni, 17.07.1997.
[103] Interview with J. Mayaka, elected as a development organisation member (Zibambeleni), deputy-chairman of the sub-region 1, Wartburg, 05.03.1997.
[104] In particular, because IDPs do not enjoy any statutory recognition, other role players are not obliged to respect their intentions.
[105] "The main objective in creating the JSBs was to establish co-ordination bodies. The JSBs were accepted but were never really able to develop because the province wanted to retain the power and control them and it is worse now. The idea of a co-ordinate development in the JSB area could never be implemented." Interview with cllr W. Schoeman, former chairman of the Thukela JSB, 21.041997.

delivery.[106] During the JSBs' time, the Section 11 committees[107] were being bypassed by parallel statutory or semi-statutory bodies relating directly to the relevant line ministries (water committees in the case of Water Affairs, Community Land Trusts in the case of Land Affairs and so on).[108] In particular, in rural areas, centralised (because directly coming from the government ministries), fragmented (because of non-existent co-ordination between the departments) and non-responsive delivery systems have undermined development, and have been an obstacle to effective and efficient public spending. Enabling local government to provide local services, and to co-ordinate local development is critical to the creation of coherent, accountable, locally-based delivery systems.[109]

Regional councils are the most threatened of all local authorities by the intervention of other spheres of government. One reason why the majority of the complaints about inter-governmental relations came mainly from IFP councillors during the interviews, is that they belong to the regional councils which are the weakest type of local government in terms of authority, expertise and political lobbying. The chairperson of the iNdlovu regional council did not hesitate to say that:

> *We seriously need in our province to put in place the intergovernmental groups[110] so that the right hand must know what the left hand is doing... We therefore implore the province to treat the regional council on the same basis as other municipalities We do not expect as RCs to be prescribed for and be seen as being discriminated against on certain issues. We do not want to perceive ourselves as illegitimate children of either the national or provincial structures.*[111]

However, even the Durban metropolitan area, with all its expertise and the weight of its budget, is facing problem of co-ordination with other actors in development. In their common submission to the first draft (discussion document) of the White Paper on Local Government, the Durban local councils explain that "while problems obviously exist at the local level, many

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[106] McIntosh A., Vaughan A., Xaba T., The Rural Local Government Question in KwaZulu-Natal: Stakeholders' Perspectives, Durban, RCF, February 1995, p.15.

[107] Section 11 committees were established as geographical sub-divisions of the JSBs. Their main tasks were the identification, investigation and evaluation of project proposals in their respective servicing areas and the formulation of recommendations to the JSB's management committee. See chapter 1, p.33-34.

[108] Regional Consultative Forum, Service Delivery and Progress toward Local Government in Rural South Africa, Durban, RCF, December 1995, p.24.

[109] McIntosh A., Xaba T., Draft Proposals Towards an Integrated Rural Development Policy for KwaZulu-Natal, Durban, non published, August 1997, p.2.

[110] Intergovernmental groups are institutionalised meetings enabling local and provincial governments to dialogue. Whether they exist in some other provinces, they were not established in KwaZulu-Natal, which shows the difficulty of inter-government relations in the province.

[111] iNdlovu regional council, Proposed Project, Administration and Capital Expenditure Estimates, 1997/1998, Presented by: Chairperson J. M. A. Ngcobo, 29 May 1997.

problems lie with the other two spheres and they are to a greater or lesser extent inhibiting local government from fulfilling its full potential."[112] The document continues by complaining about the "unilateral imposition of national and provincial strategies" and the lack of "communication and dialogue around policy-making":

> *Discrepancies within and between national and provincial departments regarding priorities, policies, future direction, etc. create much confusion and frustration... It is suggested that parastatals should be accountable to local government. They cannot be allowed to ignore the IDPs, and should instead participate in their formulation and implementation. In the DMA* [Durban metropolitan area], *Portnet and Spoornet should operate as equal development partners with local government to mutual benefit.*[113]

The issue of the control of the development of the port is a very sensitive issue in Durban. Canning outlines the problem of co-operation between Portnet and the city council:

> *Portnet has made many good decisions, and is aware of the need for coherent planning. Yet, it answers to bosses in Gauteng and Cape Town, and sometimes has a mind set that seems to say: 'if it's good for the harbour, it must be good for Durban'. With the developments at Cato Creek (the construction of a car park on the land controlled by Portnet without consultation of the city), it acted as if it were not part of a larger city.*[114]

This attitude was confirmed in a report by the executive director of Physical Environment and the director of Drainage and Coastal Engineering of the Durban metro. They stated that concerning the Pier 3 project "Portnet is putting its short-term commercial interests above the long-term interests of the city."[115]

The political colour of the Durban metro does nothing to help and its officials believe that "national government is developing the port without taking into account the metropolitan plans."[116] No progress has been made since the minister of Trade and Industry emphasised the need for collaboration between the port and the Metro and announced[117] that there would be moves towards a Port Authority which would establish a separation between the landlord and the port operator.

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[112] Joint Councils of the Durban Metropolitan Area, Response to the Discussion Document. Local Government White Paper Process, May 1997, p.ii.
[113] Ibid., pp.ii and 17.
[114] David Canning, article in the series 'Looking ahead', The Mercury, 08.12.1997.
[115] The Mercury, 08.05.1997.
[116] Interview with Teresa Dominik, Urban Strategy Department, 25.04.1997.
[117] Intervention of Minister Erwin during the 1996 Durban Metro business Conference, 21.11.1996.

1.2.2.2 - The spatial development initiatives

Local authorities have some problems in articulating their vision and actions with service providers but when the national government initiates programmes to plan the global and holistic development of an area, local government is not even considered as a meaningful partner. This was obvious when the national Department of Trade and Industry launched the Lebombo Spatial Development Initiative (SDI).[118] SDIs are particularly difficult to co-ordinate because of the many actors they are supposed to pull together.[119] The White Paper recognises that municipalities have to "become more involved in the planning and implementation of spatial development initiatives"[120] because of the impact those plans are likely to have on the urban and rural populations. However, the uThungulu regional council which is the only local government body involved in the Lebombo SDI (which covers three countries: Mozambique, South Africa and Swaziland), does not participate adequately in the planning exercise. The initiative, like nearly all the planning processes initiated in the province, began during the pre-interim phase where the councillors had no legitimate status and were unable to make any meaningful, authoritative contribution. While this is understandable, it does not explain why it has taken so long to integrate them after the elections.

The programme's first project is the construction of a R150-million commercial transport road and a lower standard road from Hluhluwe to Maputo to serve the tourism industry. The development of the greater St Lucia region will also be promoted.[121] The regional council was drawn very late into the initiative and one of the main concerns of the councillors has been that there was no consultation at all concerning the road.[122]

The uThungulu CEO requested that the consultants address the exco about corridor road link. A special meeting was arranged in November 1996[123] when a member of the national Department of Transport addressed the exco on development of the Maputo Road corridor link.

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[118] SDIs are "co-ordinated programmes involving multiple departments and all three spheres of government. They focus on particular areas of the country with high development potential." Ministry of Constitutional Development, White Paper, p.160.

[119] Vaughan describes for example the competition between national and provincial departments: "The experience of the land reform pilot project in the province has highlighted how difficult it is to orchestrate a co-ordinated effort through an implementing structure which represents line departments. They define the priorities in terms of their own functions and budget." There is also the phenomenon of the multiplication of community facilitation personnel because each department stresses on community participation. Vaughan A., 'An integrated rural development strategy for KwaZulu Natal: Towards the formulation of an effective policy', in Transformation No. 33, 1997, p.55.

[120] Ministry of Constitutional Development, White Paper, p.48.

[121] uThungulu regional council's by-monthly agenda, Uhlelo, 1 May to 30 June 1997, p.3.

[122] Mr A. M. B. Creighton, chief executive officer of the uThungulu regional council, Richards Bay, 18.07.1997.

[123] uThungulu regional council, Minutes of the Exco, 29.10.1996.

It appears that a feasibility study was to be completed in February 1997 and "all the role-players in the region will be consulted".[124] The exco asked that "the amaKosi, agricultural sector and local communities be extensively consulted before the proposed development is implemented."[125] In March 1997, the exco "noted with concern that the officials from the national Department of Transport had promised that they would return during February 1997 to report to exco on the Maputo road but failed to do so and instead had gone ahead with the formation of the Maputo corridor forum without the council involvement."[126] A letter was written to the Premier regarding the non-representation of the regional council in some of the meetings of the Lebombo SDI (especially the Transport Forum.)[127]

The SDI also has an impact on the urban areas. What is called the Southern SDI (including Pietermaritzburg, Durban and Richards Bay/Empangeni) focuses on the industrial potential of the areas. It is described in the newsletter of one of the TLCs concerned, as being a "direct government intervention within the local economy."[128] The envisaged projects include a possible industrial development zone[129]; and the development of container, passenger and sugar terminals in Richards Bay. Despite the fact that the town's council is involved,[130] because of the high level of technicality of these projects, it is unlikely that councillors will be able to measure unaided all the consequences of the decisions being taken by the group.

1.2.2.3 - The theory of the political conspiracy

We have seen that the allocation of public grants by the provincial or central government to the local sphere is not an object of political resentment. However, the tendency to by-pass the municipalities in terms of implementation of projects and planning is often felt by IFP councillors to be part of a political conspiracy.

One of the main problems for IFP rural councillors is the intervention of the departments headed by the ANC and in particular the three provincial ones (Economic Affairs and Tourism,

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[124] Ibid.
[125] uThungulu regional council, Minutes of the Exco, 14.11.1996.
[126] uThungulu regional council, Minutes of the Exco, 25.03.1997.
[127] uThungulu regional council, Minutes of the Exco, 29.05.1997.
[128] Richards Bay transitional Local Council, RB Forum, Vol. 11, June 1997, p.1
[129] The aim of IDZ is to avoid export processing zones becoming sweat shops. All the industrial and environmental standards will be kept in the IDZ. Incentives will be given by Department of Trade and Industry. The concept has caused a certain amount of scepticism because it is reminiscent of the regional investment development programmes used by the NP government to attract companies to the former homelands. The principal problem is the dependence of those areas on governmental subsidies. See Mail and Guardian, 24-29. 04.1998: 'The dream economy develops'.
[130] A working group was established consisting of representatives from Portnet, Spoornet, Zululand Chamber of Business, COSATU, the municipal council and the Department of Economic Affairs and Tourism. Richards Bay transitional local council, RB Forum, Vol. 11, June 1997, p.1.

Health and Transport). They are considered as the Trojan Horse of the ANC presence in rural areas and "could still be effective surrogates for an overt ANC presence."[131]

Councillor Felgate has stated that there is an "ANC plot to prevent the Ulundi council from being seen as delivering."[132] An IFP regional councillor declared in council that the problems facing the sub-regional committees emanated from the efforts of "some provincial departments" to undermine local government structures. He felt that certain government departments were setting up their own committees in an attempt to be seen to be delivering services to the people. The Department of Transport was mentioned in particular.[133] The other targets of IFP councillors are the national departments which are delivering directly without going through the province, such as the DWAF or Land Affairs. Councillor Conco felt that:

> *Delivery should go through the regional council but people in Pretoria are against this. The DWAF for example liaise directly with the community and ignore the regional council and the province. It is an ANC plot. It is worse than during the NP time because during apartheid, there was still consultation through the Bantu Affairs commissioner.*[134]

Even though other departments are attracting the discontent of the regional councillors, it is striking that it is the ones held by the ANC which create more problems. The 'war around delivery' is likely to increase in the months before the 1999 elections.

IFP councillors are vehement not only because they think the ANC wants to be seen as delivering. The issue of who delivers is politically contentious because the parties want to win the electoral battle but also because it touches one of the main policies advocated by the IFP. Local government has become a pawn in the battle against the supposed centralist tendencies of the central government. If the IFP's call for increased autonomy at local level is heard, this will have an impact on the autonomy of the provincial sphere, a demand which has always been on the IFP political agenda.[135] The IFP manifesto distributed during the local elections stated clearly that "it is imperative to maintain the autonomy of local government" and that "we will resist attempts by higher levels of government to remove services currently under local government control."[136]

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[131] Johnson R. W., Johnston A., 'Does peace have a chance?', KwaZulu-Natal Briefing, No. 8, July 1997, p.4.
[132] Interview with cllr Sue Felgate, IFP exco member in the Ulundi council, and member of the Zululand regional council, Ulundi, 22.07.1997.
[133] iNdlovu regional council, Minutes of the Exco, 10.04.1997.
[134] Interview with cllr Simon Conco, IFP exco member in the Ulundi council, and member of the exco of the Zululand regional council, Ulundi, 22.07.1997.
[135] One of the main IFP criticisms of the constitution was that it is "detrimental for the cause of federalism, and pluralism". The ANC has been repeatedly accused of "autocratic, centralistic and totalitarian tendencies". See Inkatha Freedom Party, Preliminary Critique of the New Constitution of the Republic of South Africa Bill of 1996, May 1996, p.1.
[136] IFP, Manifesto for the Local Elections, May 1996, p.6.

The battle over the model of metropolitan government revealed also the tension between ANC's 'centralist' and IFP's 'autonomist' approach[137]. The fight over the model was an excuse for the IFP to contest the right of central government to intervene on such issues. MEC Miller, reacting to an article by ANC Mike Sutcliffe, about the single-city, wrote that "the ANC's political agenda is clear [...it is to] ruthlessly enforce a single city metropolis - to hell with local democracy - the ANC rules."[138] When Premier Ben Ngubane wrote an article to refute any prospect of merger between the ANC and the IFP, he mentioned the local government white paper:

> *It is also erroneous to state that the IFP may 'find more consistent fighters for traditional values and institutions within the ANC'. The new white paper on local government will give clearly the measure of the schism between the IFP and the ANC on these issues and shows how the ANC has broken its promises to traditional leadership and is pursuing a programme of social engineering based on the levelling of diversity and forced uniformity."*[139]

The IFP argues that KwaZulu-Natal should be able to propose its own vision for local government (especially in the rural and metropolitan areas) because of its peculiarities. This is to be linked with the constant call for a federal system.

In terms of direct service provision and social upliftment, the results of local government are for the moment not very encouraging. But after a trend which has seen the councillors asking more and more functions to be devolved to them, it seems that they realise that they will not be able to assume all those responsibilities with their meagre resources. They are beginning to consider themselves more and more as a planning and co-ordinating body.

The councillors realise, moreover, that if social expenditure is a duty of local government, policies promoting economic development has to be put in place if the local authority is to be viable. As a result, some councillors are worried about the expenditure pattern of the local authorities. A Pietermaritzburg councillor complained about the 1997/98 budget of the city:

> *The budget is unimaginative, failing to address the crisis of unemployment. It is a maintenance budget...* [It] *is consumed by services laid out and maintained in the domestic sector... It is normal to invest in*

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[137] One has to point out that IFP's call for local democracy contrasts sharply with its former centralist approach towards local government. Its strategy has always been to centralise power to Ulundi.
[138] The Mercury, 18.03.1998.
[139] Sunday Tribune, 18.01.1998.

services in former disadvantaged areas but it is unlikely that these projects will create long term employment.[140]

2 - Economic development

Nowhere in the constitution is there any reference to local government fulfilling economic development functions but it is on the agendas of an increasing number of local authorities because this issue is vital for the survival of municipalities.[141] An official[142] stated that "people cannot pay for their services if they are poor, this is why local government has to intervene." The Durban metropolitan council has taken these new functions very seriously. An economic unit was set up in 1994 as a component of the Urban Strategy Department. In 1998, this unit became a department on its own and its goals are increasingly ambitious. "It deals more and more with the packaging of projects and their implementing. The unit does not have only an advisory role."[143]

2.1 - Developing economic activities

2.1.1 - Attracting outside investors

Local authorities find themselves in a context of technology mutation and globalisation, both phenomena which affect local authorities' financial and economic health. The tenets of the 'New Urban Politics' (NUP)[144] point out the logic of competition for capital investment between cities across the world. According to them, urban politics has become 'globalised' and much more emphasis should be given to social forces of a non-local provenance. Cities are competing for capital, and investors have a considerable leverage. This forces cities to make concessions in order to attract them.[145]

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[140] Natal Witness, 07.08.1997, article by Radley Keys, DP councillor.

[141] In Britain, local authorities have been considered as agents of economic development since the 1970s. Economic development units have been set up to pursue more aggressive advertising techniques. Local authorities are considered also as an employer and a purchaser in their own right. They prefer local firms when purchasing goods and development public-private partnerships. See Chandler J. A., 'Local authorities and economic development in Britain', in Coetz E., Clarke S. E. (eds.), The New Localism. Comparative Urban Politics in a Global Era, London, SAGE publications, 1993, pp.46-64.

[142] Interview with the town clerk of Ladysmith, 26.11.1996.

[143] Meeting with officials from the Urban Strategy Department, in particular Teresa Dominik, 25.04.1997.

[144] In South Africa, the organisation which is most vocal on this point is the Centre for Development and Enterprise which produced, for example, a document called Durban - South Africa's Global Competitor?, Johannesburg, CDE research, The Big Cities Series, 4 October 1996.

[145] Cox, critically examines this school of thought, emphasising several weaknesses, in particular, the power of the firms over local choice and their capacity to delocalise according to the local conditions.

On the other hand, Stoker[146] describes the impact on local government, of the transition from Fordism to a new mode of production. Municipalities have to cope with the consequences of desindustrialisation, factory closure, unemployment, new industrial sectors (information, technology industries) and new forms of economic activities. They have to provide support services for the unemployed and other welfare measures. They have to assist the process of economic restructuring with the building of new industrial units and/or facilitate the access to finance to new local firms. This means a shift from "managerialism to entrepreneurialism in urban governance."[147]

A few examples in KwaZulu-Natal show that some local authorities have taken direct steps in order to attract local or international investors. They have adopted a managerial approach and entered into economic networks. Harrison[148] sees in the

> *establishment of regional and local economic forums [in South Africa]... the emergence of locality-based growth coalitions. Other evidence includes the creations of institutions aiming at marketing localities (for example the Greater Durban Marketing Authority and the KwaZulu-Natal Marketing Initiative[149]) and the investment in convention centres, waterfront developments, post-modern shopping malls, mega sports stadiums.*[150]

Some TLCs use incentives to attract industries to their areas. The Gingindlovu TLC (North Coast) wanted to attract investment to provide jobs in the area and increase the town's small rates base. One of the initiatives taken by the council has been to market its industrial area by offering land at R1 a square meter. The condition was that the investors had to be able to employ about 200 workers.[151] Local authorities can also decrease their rates. Because the future development of the Ladysmith TLC was considered to be reliant on the establishment of

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Cox K. R., 'Globalisation, competition and the politics of local economic development', Urban Studies, Vol. 32 (2), 1995, pp.213-224.

[146] Stoker G., 'Regulatory theory, local government and the transition from Fordism', in King D. S., Pierre J. (eds.), Challenges to Local Government, London, SAGE, 1990, pp.242-264

[147] Ibid., p.251.

[148] Harrison P., 'Global economic trends: some implications for local communities in South Africa', Urban Forum, Vol. 5 (1), 1994, pp.73-92.

[149] The KwaZulu-Natal Marketing Initiative is the official inward investment marketing body for the province. It was tasked with the facilitating of investments in the region and organise exchanges between its members (City of Durban, Eskom, Estcourt, Greater Durban Marketing Authority, KwaZulu Finance Corporation, Ladysmith, Newcastle, Pietermaritzburg, Pinetown, Portnet, Richards Bay, Umgeni Water, uThukela and iNdlovu regional councils) and foreign companies.

[150] Harrison P., 'Global economic trends', p.83.

[151] The Mercury, 06.11.1996. Estcourt TLC offers also incentives (on the price of land and on the rates) for processing, manufacturing or assembling industries.

as many industries as possible, a proposal was tabled before the council which dealt with the rates in the eZhakeni industrial estate. This area fell under the KwaZulu government and industries never had to pay rates there in the past. The proposal was to implement a 100% rebate for 1996/97 and then progressively decrease the rebate until 2004/2005:[152] "Because the town is in competition with others in KwaZulu-Natal, the municipality also offers rebates on the price of electricity, industrial land and water."[153]

Other factors impacting on investment in a given area have been identified by the Minister of Trade and Industry Alec Erwin. He stressed[154] that local authorities should not only offer incentives for investments when they want to facilitate trade.

> *The free zones are not the first incentive for business to establish and there are other important issues such as promotion, transport facilities, clear contracts, clear rules of the game (good institutional environment).*[155]

Local government can involve businessmen in land use and infrastructure planning, establish specific equipped areas; establish systems for the gathering and analysis of information on small businesses. The iNdlovu regional council for example, initiated a project aimed at identifying opportunities in the rural areas. A socio-economic data base for the region is being established where the economic development may be monitored and areas of growing commercial and industrial activities identified.[156] More importantly, local government can expand demand by eliminating obstacles such as laws that regulate participation in public calls to tender.

2.1.2 - Development of local entrepreneurship

It is estimated that in the province 30% of the current employment opportunities in the formal private sector are provided by small businesses.[157] Local authorities are already considered as one of the main stakeholders in the promotion of this type of activity. The Conference on Small Business, which took place in Durban in November 1997, aimed at "exposing South African local government institutions to international best practices with

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[152] Ladysmith transitional local council, Agenda of the Exco, 30.10.1996.
[153] Interview with Jan Coetzee and several officials in the Ladysmith municipality, 22.04.1997.
[154] Contribution by Alec Erwin, Minister of Trade and Industry, during the 1996 Durban Metro business conference, 21.10.1996.
[155] Ibid.
[156] iNdlovu regional council, Quarterly report No. 2, July 1997, p.2.
[157] KwaZulu-Natal Provincial Cabinet, The Provincial Growth and Development Strategy, p.13.

respect to their role in the facilitation of small business promotion."[158] The letter of invitation from the Department of Trade and Industry, outlined that

> *... over the past two years, the department has maintained good contact with the provinces. Notably absent have been the local governments. With the election of new officials to these structures, it has now become urgent to involve all the local government officials, on the promotion and support of the National Small Business Strategy.*[159]

The Durban metropolitan council is aware of its role in this matter. Its Economic Development Department advertised in July 1998 one post of Manager: Small business, Township and Community Economic Development.[160]

Apart from improving the environment in which small, medium and micro enterprises (SMME) work[161] local authorities can become a principal actor in employing small businesses for the implementation of development projects such as delivery and maintenance of reticulated services and permanent buildings. The Provincial Growth and Development Strategy clearly links provision of public services with improvement in the quality of life, but also with economic development through its impact on job creation. KwaZulu-Natal local economic development programmes encompass those objectives. They aim at:

> *... stimulating economic growth... through delivery of basic needs so as to encourage investment in such areas. The process of delivering the basic needs should also promote the local economic development of people through promoting local participation both in decision-making and in the available job opportunities.*[162]

Local authorities are ideally positioned to fulfil this task, in particular because they can favour small businesses through tenders and contracts. They can modify the tendering process to allow division of large contracts, they can streamline the process of tender allocation, they can promote the use of labour intensive methods...[163] In Durban, Ms V. McMenamin, a metro economist, said that in terms of economic empowerment of disadvantaged communities and business, the council was employing an affirmative procurement policy in the granting of tenders for council projects which would actively seek to include emerging businesses into the

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[158] The Mercury, 06.11.1997.
[159] iNdlovu regional council, Agenda of the Exco, 29.09.1997.
[160] Mail and Guardian, 03-09.07.1998.
[161] Local authorities can offer SMME support through provision of adequate working conditions; collect and disseminate information on public tender opportunities; facilitate business relationship between large and small firms locally; remove regulations which impact negatively on small businesses
[162] KwaZulu-Natal Provincial Cabinet, The Provincial Growth and Development Strategy, p.104.

metro economy.[164] Estcourt TLC envisages the 'privatisation' of some services like "tarring of roads but the emphasis is put on the use local expertise and labour to uplift the local people and to give a better quality of life."[165] The acting town clerk of Dolphin Coast said that the council had decided to privatise water delivery on a 100% basis and that the bidders had to include black-empowerment groups and retain present municipal employees.[166] When the iNdlovu regional council's tourism department looked for an advertising agency to promote the region, the councillors pressed the officials to choose an "emerging agency."[167]

By promoting employment, local authorities are going beyond mere provision and delivery, and are giving a more ambitious meaning to the term 'developmental' Local government is finding ways of linking delivery with social responsibility. Through an increased partnership with groupings of civil society, delegation of certain aspects of service rendered to the population can mean the promotion of small businesses.

For more and more people:

> *The test of development... is not only whether it provides facilities but whether it unleashes processes which enable the recipients to develop the autonomy they need to participate effectively in social and economic life.*[168]

The NGO PLANACT speaks also of development as a process, through which citizens are given the opportunity to drive their lives:

> *Development is a process by which the members of a society increase their personal and institutional capacities to mobilise and manage resources to produce sustainable and justly distributed improvements in their quality of life consistent with their aspirations.*[169]

At this point in time, it is hard to judge the efficiency of the initiatives taken by local government to promote development in their areas. Most of those which have embarked on a formal local economic development planning exercise have not yet identified any concrete strategies. As stated by the research institute which was in charge of providing information to

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[163] See Sinnett P., 'Local government financing', in Reddy, Perspectives on Local Government Management, pp.39-41.
[164] The Mercury, 04.03.1998.
[165] Estcourt transitional local council, Discussion Document on the Local Government White Paper: Input from the TLC, 30 May 1997.
[166] Sunday Independent, 10.05.1998.
[167] iNdlovu executive committee meeting, 28.01.1997.
[168] Friedman S., The Elusive 'Community': the Dynamics of Negotiated Urban Development, Johannesburg, Centre For Policy Studies, Social contract series, Research Report No. 28, February 1993, p.6.
[169] PLANACT, 'Transition and development' in Moss G., Obery I. (eds.), South African Review 6. From 'Red Friday' to CODESA, Johannesburg, Ravan Press, 1992, p.203.

the White Paper committee on eight local authorities[170] in KwaZulu-Natal, one year after the elections, "very few of these plans are complete and their usability and effectiveness in bringing about change is unclear at this stage."[171] Whereas local economic strategies should be based on local initiatives that develop local strengths and comparative advantages, "a number of towns' local economic development (LED)[172] strategy tend to remain confined to marketing."[173] Mandeni TLC is one of the few exceptions. Here, a team of consultants from the Institute for Social and Economic Research (ISER) of the University of Durban-Westville prepared a specific report on economic development of the area and analysed the stumbling-blocks. To ensure its follow up, the TLC has set up a sub-regional economic development forum which also involves people outside the boundaries of the TLC and an important conference was organised in August 1997 on the subject.[174]

At least, whether through a special initiative or through their Integrated Development Plans (IDPs), most of the local councils in the province have now an idea of the current local economic reality. They have formulated a vision, if not a concrete plan of action. It is up to them now to initiate an environment conducive to investment.

When one talks about acting on the environment to promote investment, one generally refers to the infrastructure provided to industries and to the workers so that they are willing to settle in the TLC. In KwaZulu-Natal, one of the impediments to investment has been the level of political violence experienced in the province. As a consequence, it is particularly important for KwaZulu-Natal local authorities to bring down the level of political violence and criminality in the province.

2.2 - Security as a developmental measure

As pointed out by Hollis et al.[175] local government can advance economic development through the promotion of economic activities but it has also to focus on other council services which have an indirect impact on the economy. The authors cite, in the English context, the economic dimension of providing education or ensuring consumer protection. In South Africa,

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[170] Zinkwazi, Gingindlovu, Inyala, Pennington, Ixopo, Melmoth, Pietermaritzburg TLCs and iNdlovu regional council.
[171] Foundation for Contemporary Research, unpublished paper on eight local authorities in KwaZulu-Natal for the white paper committee, Cape Town, August 1997.
[172] See the section on LED, White Paper, pp.25-26.
[173] KwaZulu-Natal Provincial Cabinet, The Provincial Growth and Development Strategy, p.78.
[174] Interview with Mr Press, town clerk of Mandeni TLC, Mandeni, 14.07.1997.
[175] Hollis G., Ham G., Ambler M. (eds.), The Future Role and Structure of Local Government, Harlow, Longman, 1992.

local authorities can promote a non violent environment.[176] and this has an impact on economic development. Firms worry for the security of their sites and equipment and qualified employees are also reluctant to be transferred in a crime-ridden zone.

2.2.1 - Criminal violence

Durban is the only city in South Africa to have its own police force. This arrangement has now been extended to the whole of the metropolitan area.[177] Drawing on the Durban model, the White Paper envisages that a new legislation will enable other municipalities to establish municipal police forces.[178] In the meantime, some have initiated various actions (even if security and crime prevention is not constitutionally one of their functions) in order to ensure that their citizens benefit from increased protection. The Mtunzini TLC (North coast) proposed to set up a checkpoint at its entrance as St Lucia TLC did.[179] A council sub-committee was considering in 1997 the possibility of erecting a security gate in its access road. The town clerk Danie Marais said the sub-committee was investigating different crime prevention measures and that included the fencing of the entire town and 24-security patrols.[180]

Some other TLCs limited their intervention to the organisation of meetings. The Pietermaritzburg/Msunduzi council hold the first of a series of crime prevention forum meetings in October 1996.[181] In the North Coast, the Empangeni mayor Denis Moffatt chaired a public meeting on crime in Empangeni, following the launch of Business Against Crime in Richards Bay. The following day, he had a meeting with Justice Minister Dullah Omar to

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[176] For a long time, the Democratic Party has been calling on local authorities to take a leading role in the fight against crime: "Community police forums are voluntary structures. They are not always representative of the communities which they aim to serve. It is becoming abundantly clear that a number of CPFs are failing. Now that democratic local government elections have been held there is a powerful argument to incorporate CPFs into current local government structures in the form of municipal or sub-municipal crime prevention councils." Democratic Party, Winning the War against Crime: Practical Solutions, November 1996, p5.

[177] The Metro exco approved a single metropolitan police service in June 1996. The Mercury, 03.06.1997.

[178] Ministry of Constitutional Development, White Paper, p.49. The director of Kwanaloga, Andrew Ferguson, announced that municipal police force will have three main functions if the Police Services Bill is accepted. The two current ones are traffic law enforcement and policing of bylaws, with crime prevention added. The Mercury, 06.11.1997.

[179] The St Lucia mayor Arrie Viviers said his council received a "100% mandate" from ratepayers to implement crime prevention and security measures to make the town crime-free. The TLC has made a formal application to the province for a security point which would normally remain open but could be closed in cases of "extreme emergency". Miller answered that the local council had "transgressed far beyond their level of authority and competence". The mayor justifies his move by the fact that crime had increased by 350%. (Saturday Paper, 14.06.1997).

[180] The Mercury, 11.06.1997.

[181] The Mercury, 31.10.1996.

speak about crime in the region.[182] A "Zululand against crime" meeting was called by the Mtunzini TLC to deal with crime in the North Coast region.[183] The mayor of Mtunzini, Louis de Clercq, suggested that a meeting of all the mayors of Zululand be called soon with Chamber of Business, Farm Watch, the police and the Justice Department to address crime.[184]

These examples prove that local politicians have endorsed as an important function the policing of their towns and that they are organising between themselves to be heard by other spheres of government.

2.2.2 - Political violence

The Provincial Growth and Development Strategy states that violence "had a particularly detrimental impact on small and micro-enterprises who have experienced the destruction of property, loss of life, and loss of trading opportunity."[185] The document adds that besides undermining investors' confidence in the province, violence has dissuaded tourists from visiting the province.[186]

The local elections have clarified the balance of forces in certain disputed areas and today, legitimate representatives coming from the IFP and the ANC are responsible for the council's success. Certain authors consider that decentralisation, the process of devolution of power to local actors, helps to diffuse political tension and thus decrease violence, because it gives to representatives of different scope of opinions and interests, opportunities to express themselves:

> *Decentralisation will defuse the desperation on the part of political actors to capture political power at the centre. A decentralised political system offers safety valves for opposition elements within fledging political systems which are learning how to accommodate opposition political forces.*[187]

2.2.2.1 - Violence has decreased but tensions remain

The Human Rights Committee (HRC) reported that "following the acceptance of the results [of the local elections] the levels of violence remained relatively low for the second half

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[182] The Mercury, 19.11.1997.
[183] The Mercury, 06.11.1997.
[184] The Mercury, 12.11.1997.
[185] KwaZulu-Natal Provincial Cabinet, The Provincial Growth and Development Strategy, p.14.
[186] Ibid., p.15.

of the year [1996]..."[188] Politics seems to have 'normalised' itself with the local elections. We have seen that the elections took place in good order and that after the elections, the establishment of a dialogue between the ANC and the IFP at the highest level seemed to render violence needless.[189] Wembezi (Estcourt TLC) is an example of township where the drop in violence coincided with the local elections:

> *The atmosphere in Wembezi had changed markedly. Harry Gwala's death removed a major irreconcilable from the scene and the local elections had established a new balance of power.*[190]

The elections gave a balanced representation for the ANC (which won three wards) and the IFP (three wards) in Wembezi and enabled two prominent political leaders of each party to work together in the council chamber as mayor and chairman of the exco. A peace rally organised by the Estcourt peace committee in November 1996 featured prominent local and provincial politicians from the IFP and the ANC, joining hand to rebuild a new future for Wembezi. Ntombela and Nkabinde, respectively IFP and ANC MPPs used the event to mark again their commitment to the peace process in the province and planted a tree together in one of the township's gardens.[191] However, the HRC reported that after a period of calm which lasted six months after the election, the violence escalated again in December during the holidays.[192]

On the contrary, in some areas, the number of politically related killings have increased since the local elections. In Mandeni, a co-operative relationship developed between the local IFP (Shakes Mhlongo) and ANC (Sam Zwane) leaders. The ANC leader became mayor of the TLC in July 1996 but as his IFP counterpart was killed in a car accident, a breakdown in communication between the two parties happened.[193] Indeed too often, peace or collaboration is dependent on the good will of a few people and more and more, the control of apparent

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[187] Olowu D., 'The African experience in local government', in Reddy, Perspectives on Local Government Management, p.5.
[188] Human Rights Committee of South Africa, Human Rights Review 1996, p.41.
[189] "The ANC issued a set of peace proposals in June, the IFP responded and put forward counter-proposals and the country got used to the sight of minister Buthelezi standing in for the president and deputy president as a normal procedure". Johnston A., Johnson R. W., 'Peace talks and the Felgate factor' in KwaZulu-Natal Briefing, No. 9, November 1997, p.17.
[190] Claude N., Johnson R. W., 'Wembezi: some cause for hope', in KwaZulu-Natal Briefing, No. 6, March 1997, p23.
[191] Peace Rally in Wembezi, 17.11.1996. The researcher was present.
[192] Human Rights Committee of South Africa, Human Rights Review 1996, p.41.
[193] Claude N., 'Mandini: Trouble across the Tugela', KwaZulu-Natal Briefing, No. 5, December 1996, p.7.

leaders (which local councillors are supposed to be) over violence is tenuous. Other factors such as the role of the police and its effectiveness in arresting people are playing a great role.[194]

Even if it is often difficult to make a distinction between violence fuelled by a political motive and murders due to economic or personal motives, the fact is that some criminal acts are still read in terms of conflict between the ANC and the IFP or use networks created by the parties (especially SDUs and SPUs) during the low intensity war which wracked the province from the mid-1980s. The question is to what extent political representatives elected in council and the local authority as an institution are able to direct the conflict towards a peaceful solution.

2.2.2.2 - Role of councillors

The link that one can draw between the establishment of an elected and legitimate local council and the decrease in political violence can be no more than indirect. It is not necessarily because different parties sit around the council table that tensions are diffused. In Estcourt, only three councillors are involved in the peace process, and of those three, only one is considered as exerting an influence over the violence.[195] Two councillors - the ANC and IFP leaders in the township, who respectively shared the two important posts of chairman of exco and mayor -

> *... were not in any position to guarantee commitments they gave to each other because political leadership in Wembezi, did not translate into military leadership...* [this explains] *the youth-based strategy of Captain Nzimande (head of the Public Order Policing Unit) who preferred to work with them than with the senior politicians.*[196]

The third IFP councillor involved in the local peace process was interviewed by the researcher and did not make any link between his activities as a councillor - he did not seem to be very clear about what they were - and his role in the prevention/fuelling of violent activities One incident illustrates this. When an ANC supporter was killed in Wembezi VQ section in November 1996 and the ANC launched a retaliatory attack on IFP supporters, the leadership of both organisations called a meeting where it was decided "that people involved in the attacks be handed over to the police. The IFP honoured the agreement but the ANC allegedly failed to

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[194] Claude reports that in the Red Hill area of Sundumbili (where both ANC and IFP have armed forces at their disposal) the political struggle was overt. Another conflict was taking place at the same time in Mombeni, a tribal area where a group of youth are terrorising people. Ibid.

[195] Interview with Angela Andre (Estcourt Peace committee, Estcourt, 08.08.1997) and with Captain Nzimande, head of the Public Order Policing Unit (POPU), during the Peace Rally in Wembezi, 17.11.1996.

[196] Claude N., Johnson R. W., 'Wembezi: some cause for hope', in KwaZulu-Natal Briefing, No. 6, p.24.

do likewise."[197] The IFP youths went then to this councillor and complained to him about harassment.[198] However, that was not because his status of councillor but because of his own authority over the youth.

The main reason for the decrease of the violence after the election is that the results gave a clear picture about which party controlled which area. The election results:

> *... entrenched the no-go zones, in Wembezi this solved the problem of control... The acceptance of election results allowed peace talks to resume.*[199]

This was confirmed by Estcourt councillor Nunes who is also the chairman of the local peace committee. He did not stand for election because of his involvement in the peace process - he even found strange that one could make a link between the two positions - but through his work for the ratepayers' association. He considers that there is no direct relationship between the peace process in Wembezi and the local elections. The fact that the council is elected and that the main political leaders are part of the structure does not translate into any peace-making role according to him. "What is good is the balance of power between the ANC and the IFP because if it had not been the case, there would have been the possibility of more violence."[200]

Sometimes, the councillors themselves are involved in fuelling violence. For example in December 1996, violence in Inchanga (near the Mpumalanga township, west of Durban) flared up despite recent peace talks between parties and the presence of security forces.[201] Interpretations vary over the conflict[202] but what is certain is that local councillors did not show any ability to stop it and were even accused of fuelling it. In August, when the violence broke out again between the IFP and the ANC in Fredville (near Inchanga), the IFP appealed urgently to the provincial MEC of Transport after taxis stopped servicing the IFP-dominated Tin Town township. According to IFP leader Philip Powell, the taxis were instructed by ANC

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[197] Human Rights Committee of South Africa, Human Rights Report, January 1997, p.21.
[198] Ibid.
[199] Human Rights Committee of South Africa, Human Rights Report, November 1996, p.28. The same can be stated for the Richmond townships. The Mail and Guardian reports that "Magoda is virtually indistinguishable from Ndaleni... but politically, Magoda and Ndaleni are worlds apart. Ndaleni's occupants are mostly African National Congress supporters, while the men and women of Magoda follow Sifiso Nkabinde under the banner of the United Democratic Movement." Mail and Guardian, 17-23.07.1998.
[200] Interview with councillor C. Nunes, Independent ward councillor and chairman of the local peace committee, Estcourt, 27.11.1996.
[201] Human Rights Committee of South Africa, Human Rights Report, December 1996, p.14. At the beginning of January 1997, five IFP supporters were buried in Tin Town near Inchanga and the funeral was attended by Premier Mdlalose and Jacob Zuma. (The Mercury, 09.01.1997).
[202] Some labelled it an internal ANC conflict, some accused the Fredville community, some pointed to the role of the police in instigating the violence. See Human Rights Committee of South Africa, Human Rights Report, March 1997, p.24.

Outer West councillors not to serve the Tin Town area.[203] Powell reiterated his accusations a few weeks later when he accused ANC councillors of bad behaviour.[204]

The councillors' involvement in violence seems clear in Umbumbulu (south of Durban)[205] which is on the fringe of the metropolitan area. In addition to the well-known problem of the return of displacees,[206] the contentious issue of financial transfer between the metro and the regional council is another reason for tension. Before 1996, the Port Natal/Ebhodwe JSB encompassed both the present metro and iLembe councils (cf. annexe II). The Port Natal/Ebhodwe JSB and the city of Durban used to collaborate on different issues. They worked together on fire services and transport planning (financed by the JSB but done by the city).[207] Because of its expertise, the city collected the levies on an agency basis, on behalf of the JSB. The agreement was that 39% of the total revenue collected in the city and the surrounding rural areas should be spent in rural areas and 61% in the Durban functional region (DFR).[208]

When the decision was taken to create the iLembe regional council, the administration of the city and of the rural area were separated, despite the numerous links existing between the two.[209] Because there is no provision for any transfer of funds from one local authority to the other and because the metropolitan council is clearly identified with the ANC and the regional council with the IFP, the regional councillors are "raising the tension in the rural areas against the metro."[210] The ANC is clearly identified by the regional councillors interviewed, as the main stumbling-block to delivery and development in the fringe of the metropolitan area. The iLembe councillors are under the impression that the metropolitan council refuses to grant them their share of the income raised in the metro because the rural areas are under IFP control. An IFP member of the regional council explains that:

> *There is a lot of pressure from development committees towards the councillors. They are struggling to respond to queries and to explain the reasons for the poor funding. It is a hell of a problem out there The issue*

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[203] The Mercury, 12.08.1997.
[204] The Mercury, 25.08.1997.
[205] Ubumbulu was one of four areas in the province hit by violent attacks in April and May 1998 and at least two persons died. See annexe XXXI, the maps of the 'killing fields of KwaZulu-Natal'.
[206] According to an ANC councillor Makhanya, people from Umbumbulu fled their areas in the 1980s "because of repression from the South African Police aligned to the NP and the KwaZulu police aligned to the IFP. Now, they cannot go back to their place because the IFP would suffer a decrease in its power... The ANC wants to reinstall people into their original place 'for harmony' but the IFP is scared." (Interview with cllr Bantu "Selbi" Makhanya, iLembe exco councillor, chief of the ANC caucus, Durban, 10.09.1997)
[207] Interview with Mr Buks Pretorius, chief executive officer of the iLembe regional council, Durban, 05.09.1997.
[208] Interview with Mr S. V. Zondi, Administrative officer, iLembe regional council, Durban, 29.08.1997.
[209] For more details, cf. below.
[210] Anonymous interview.

is becoming hotly contested and things are becoming tense. The communities view the metro as unfair to them for withdrawing the money. They think they are being provoked. The situation is worse than before because we used to have the 39% and people are aware of it. Those who sat in the Section 11 committees are asking now why they do not have the same amount of money.

The general acceptance of the results of the elections, and the drop in the general level of violence, do not necessarily demonstrate that the council is a medium for conflict resolution between political parties. Political violence and politics in council are two separate domains. On one hand, as we have seen, councillors are not necessarily strong authority figures. The instigators of violence do not necessarily listen to them, even if they belong to the same party. On the other hand, councillors can fuel existing tensions when that serves the interests of their parties.

In any case, it is clear that the council is not viewed as the venue to solve the problem of political violence by any of the major protagonists.

3 - Local authorities as stumbling blocks to development

Local authorities are recognised as a major role player in the field of local economic development. Through direct initiatives (like rate incentives) and indirect ones (like infrastructural development and decreasing violence levels), they could have the potential to attract new firms in their areas, promote the creation of local small businesses and contribute to the economic prosperity of the area. However, in practice, local government has not yet developed to assume those functions. They are themselves one of the main stumbling blocks to local economic development.

3.1 - The boundaries are not developmental

One of the main challenges facing South Africa is rapid growth of population and wealth in the urban areas and the poverty and stagnation of the economy in rural areas. One of the solutions is to set up a:

... strategy for rural communities who should benefit from the establishment of local economic development strategies which bind

rural communities to small towns, and open up access to economic opportunities and services in these.[211]

Municipalities are handicapped by the boundaries adopted before the local elections. Many TLCs complain that they are victims of the political criteria applied during the demarcation process. In a submission to a draft of the white paper, the Durban councils stated that "political and administrative boundaries should be made more compatible in order to prevent confusion and disparity. Boundaries should be reviewed in terms of technical criteria."[212] The councillors have come to realise the practical problems of the decision to exclude the tribal areas from the TLCs' boundaries. In Mandeni, there are informal settlements just outside the boundaries of the TLC, under the amaKosis' jurisdiction. These areas are functionally linked with the TLC, being dependent on the urban area for work and services. The council was advised that the Mandeni LED strategy should not stop at the borders of the TLC.[213] Some TLCs have taken the initiative of providing some services to areas outside their boundaries. In Mandeni, the council has entered into agreements with the various water committees in order to supply water to rural areas.[214] In Richards Bay, the TLC serves two tribal areas, bringing them potable water from eZikhawini.[215] The Ulundi TLC provides electricity and water to some villages which are not included in the boundaries.[216]

The TLCs have begun to take people staying in the fringe of the urban areas into account, in terms of planning and provision and services. One can only hope that the new independent Municipal Demarcation Board established by the Municipal Demarcation Act[217] will correct the artificial division between urban and "informally urbanised" areas created by the boundaries. However, the demarcation is only a limited tool when it comes to promote urban/rural linkages. Institutions such as the regional councils, comprising both urban and rural areas, were also supposed to enhance the collaboration between the two.

3.1.1 - Coherent planning between rural and urban areas through the regional councils?

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[211] KwaZulu-Natal Provincial Cabinet, The Provincial Growth and Development Strategy, p.9.
[212] Joint Councils of the Durban Metropolitan Area, Response to the Discussion Document, p.13.
[213] McCarthy J., Hindson D., Peart R., A Local Economic Strategy for Sustainable Development in the Mandeni TLC area, Durban, ISER, 1997, p.3.
[214] Mandeni transitional local council, Minutes of the Council, 07.05.1997.
[215] Interview with cllr B. B. Biyela, mayor of Richards Bay TLC, IFP, Richards Bay, 16.07.1997.
[216] Interview with Mr C. F. A. Rademan, chief executive officer of the Ulundi TLC, 23.07.1997.
[217] Municipal Demarcation Act, Act No. 27 of 1998, which came into effect on 3 July 1998. According to the Act, the Board must take into account the need to "include a rural area in a municipality which has a town as its core if that town has a strong social and economic linkage with that rural area and functions primarily as a service centre for that rural area." Municipal Demarcation Act, chapter 2, section 25.

The regional council is a geographical level of planning and because it comprises urban and rural areas, it is ideally placed to look at holistic development and the linkages which can be developed between the two worlds. The challenge has been accepted in the Midlands. The iNdlovu regional council has initiated discussions with the Chamber of Commerce and Industries and the Pietermaritzburg TLC. The regional council tries to encourage foreign and national investment into the region and to identify growth points.[218] The idea is to set up a local economic forum comprising the TLC and the regional council because investment is disproportionately concentrated in Pietermaritzburg. Firms will be able to speak to one partner and be directed to the best area in the region:

> *For the moment, they come to Pietermaritzburg, visit the chamber of commerce and the TLC and leave. We had a discussion with Pietermaritzburg mayor and we will call a workshop to set up the forum. We will design a brochure to show where the incentives are, even in the traditional areas. We will take them where we think they can invest.*[219]

Unfortunately, this type of initiative is too rare and the urban and rural areas do not usually considered themselves as interdependent. Despite the fact that the council and the exco of the regional council comprise both rural and urban representatives, common interest is far from being recognised. The regional councillors do not make any effort to consider the development of the region as a whole. This can be seen through the attitude in council of the two main fiscal contributors.

The levies on which the regional councils depend are raised in farms and in the urban areas. The rural levy payers' representatives have no interest at all in what is going on at the regional council level,[220] because it has proved impossible to grant a meaningful representation to the farmers.[221] For their part, urban councillors are even more remote from the rural

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[218] iNdlovu regional council, Quarterly report No. 2, July 1997, p.1.

[219] Full council meeting of iNdlovu regional council, Pietermaritzburg, 15.08.1997.

[220] They regard rural local government as a powerless body unable to bring development in the tribal areas and unwilling to invest levy payers' money in farms. Levy payers representatives no longer attend council meetings and in some regional councils, they never did. In the Zululand regional council, there are six vacant seats (of a total of 12) and of the six levy payers present, four represent the Melmoth area. "There is a boycott from the levy payers because they think that they will not have a say, their representation is too small." The situation is worse in iLembe regional council where there is not one levy payer representative on exco: "I think that we should have 11 of them onto council but we have only two who are farmers. We have a problem getting them on board" Interview with cllr A. Horton, member of the exco of iLembe regional council and chairman of the exco of Dolphin Coast TLC, Ballito, 22.10.1997.

[221] The IFP was adamant that all traditional chiefs in the province would have a seat. If the levy payers had won their battle for a meaningful representation in council, rural local authorities would have been dominated by interest groups and not by councillors democratically elected by the citizens of the regions.

preoccupations. The difference of interest between urban and rural councillors is so important that some councillors do not hesitate to state that "in the council, the split between urban and rural councillors is more important than between the IFP and the ANC."[222] Another councillor from the same regional council confirms that "the ANC and IFP joined against the TLCs at the beginning in exco."[223]

In most of the regional councils,[224] the majority of TLC representatives who sit in the rural council come from small urban areas. Considering their profile (in general white and independent councillors), it is not surprising that they reject the regional council as being at the best a toy and at the worst a farce, where "politics is playing a disproportionate role."[225] They often mentioned the fact that "most of the rural councillors and sometimes the chairman are illiterate".[226]

On the other hand, councillors elected on the rural list, found it difficult at the beginning to understand the relationship between the regional council and the TLCs. During a training workshop for the exco members of the uThukela regional council[227], rural councillors were trying to assert their power over urban areas:

> *The chairman of the RC does not fulfil the same role as the mayor of a TLC because he has plenty of mayors under him. He is the leader of local government in the whole region.*

The CEO had to specify that the RC and TLCs are both local government structures, equal in status.

The gulf between urban and rural councillors is also apparent in the battle for the allocation of the income raised in the TLCs. The most important urban centres in the province complain about the way they are treated.[228] In some councils, heated debates are taking place around the employment of the income generated in urban areas. The question is what proportion of the total amount should go to urban and rural areas. The delay in the adoption of the 1997/1998 budget of the uMzinyathi regional council is explained by the Newcastle TLC's reluctance to spend too much on rural areas. Proposals advanced in exco from the beginning of May 1997 were favourable at first to the urban areas but as time went on, the urban share

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The IFP priority was to grant proper representation to traditional leaders, not farmers. Levy payers were granted a 10% representation in council which prevented them from having a direct impact on the decision-making process.

[222] Interview with an uThukela regional councillor.

[223] Anonymous interview with an uThukela regional councillor.

[224] Except in iNdlovu regional council because of the weight of Pietermaritzburg.

[225] Interview with a councillor who wishes to remain anonymous.

[226] Ibid.

[227] Workshop on strategic planning, Ladysmith, 17-18 October 1996.

[228] This is a national phenomenon. The White Paper states that "the urban municipalities complain that not enough of [the income collected in urban areas] is re-invested in urban infrastructure". Ministry of Constitutional Development, White Paper, p.6.

dwindled. At first, the exco advisory group of the regional council proposed that a sum of R3,8 million be reserved for the TLCs and that Newcastle should receive R3,2 million. It also indicated to the TLCs on which projects the regional council's grants should be spent.[229] After a fierce battle and strong opposition from regional councillors, it was finally decided to retain the *status quo* by using the same percentage applied in the 1996/97 budget (37% for urban and 63% for rural areas).[230] Furthermore, in a move which illustrates the recognition by the regional council of the autonomy of decision of urban areas, the council allowed the TLCs to decide amongst themselves how they will allocate the global amount granted to them.[231] The same decision was taken in uThungulu regional council: "That eased the process because the TLCs did not contest the amount of money they got, they shared the money set aside for urban areas between themselves."[232]

Because Pietermaritzburg is so important, the TLC enjoys some privileges in the iNdlovu regional council, such as benefiting from a global allocation of finance based on a *per capita* calculation.[233] This measure dates back from the time of the Midlands JSB. The regional council officials recommended to the new council that the global allocation of funding be limited to the Pietermaritzburg/Msunduzi TLC and that funding for other TLCs be evaluated on the basis of merit and motivation.[234] This has led the IFP caucus[235] to challenge the legitimacy of the TLC benefiting from such freedom. Councillor Seymour contested the autonomy with which the TLC allocates the regional council's money, pointing out that:

> *It is noted that this allocation was made on the basis that the TLC would motivate individual projects to obtain the best advantage relative to the co-funding of project between the RC and the TLC. The proposed allocations would be subject to the RC exco approval. The fact that the RC has not had prior advice as to the proposed overall RC budget allocation for the TLC is a matter of concern.*[236]

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[229] TLCs were allowed to spend 15% of the levy generated within their boundaries for urban basic; 0% in the developed part ; 10% for underdeveloped part ; 10% for under developed towns privately owned. See uMzinyathi regional council, Minutes of the Exco Advisory Group, 05.05.1997. The following exco revised the urban/rural expenditure split: urban basic 10% ; underdeveloped towns 5%, privately owned 5% and Newcastle will have 20% of the levy paid coming back and not 35% like decided previously. See uMzinyathi regional council, Minutes of the Special Exco, 24.06.1997.

[230] uMzinyathi regional council, Minutes of the Council, 17.07.1997.

[231] Ibid.

[232] Interview with Mr A. M. B. Creighton, chief executive officer of the uThungulu regional council, Richards Bay, 18.07.1997.

[233] iNdlovu regional council, Minutes of the Special Exco, 12.05.1997.

[234] iNdlovu regional council, Agenda of the Special Exco, 09.06.1997.

[235] The urban vs. rural problem is blurred by the fact that most of the urban areas are held by the ANC and the regional councils by the IFP. It is then difficult to state exactly what factor is dominant in the clashes or issues debated in council.

[236] iNdlovu regional council, Agenda of the Special Exco, 09.06.1997.

The matter has gone beyond the simple bickering between an ANC-dominated Pietermaritzburg council and an IFP iNdlovu regional council. In practice, the issue of the TLCs' freedom in allocating the regional council money is preventing coherent planning.

To avoid this, in late 1997, a report of the iNdlovu CEO proposes that "a global amount of 20% of the iNdlovu regional council's net project funding budget... be allocated to the Pietermaritzburg/Msunduzi TLC for the 1998/1999 financial year, expenditure to be subject to the TLC submitting project specific proposals and estimates to the RC for exco approval."[237]

Since regional councils, by their nature, concentrate on tribal areas, and the most powerful TLCs are permitted to decide on the use of the levies, the chances of coherent regional planning through the participation of different groups in the council are not high.

3.1.2 - iLembe regional council and the Durban metropolitan area

The lack of co-operation between urban and rural areas is extreme in the case of the iLembe regional council (called also 'the Durban collar') and the Durban metropolitan area. Those two areas are examples of territories closely linked but divided politically.

An estimation of the metropolitan administration shows that the population of the Durban TMC is about 2.4-million, with 26% living in informal settlements. A further 0.4-million people are located "just beyond the boundary and are functionally part of the greater metropolitan region."[238] The current metropolitan boundary does not reflect the boundary of the functional urban system. This affects the ability of local government to reinforce metropolitan spatial objectives. The South local council is particularly affected as the number of people living just outside its boundaries is almost equal to the population within its boundaries.[239] As well as exerting enormous pressures on the limited resources of the South council, it also limits opportunities for co-ordination and integration of development efforts.[240] For instance, a regional councillor complained that the metropolitan administration was dumping its solid waste outside its boundaries "without asking or telling anyone."[241]

The new institutional framework has not only prevented common planning between Durban and its surrounding rural areas. As we have already mentioned, it has also stopped the financial transfer which used to occur. Councillor Horton, who sat on the Demarcation Board

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[237] iNdlovu regional council, Agenda of the Exco, 25.11.1997.

[238] Durban Metro, Towards a Spatial Development Framework for the Durban Metropolitan Area, draft discussion document, February 1997, p.4.

[239] Ibid., p.21.

[240] However when needed, there is technical co-operation between the regional council and the metro. For example, a development project near Ballito had an impact on the regional council and a steering committee was set up between councillors from the two local authorities. Interview with Mr Buks Pretorius, chief executive officer of the iLembe regional council, Durban, 05.09.1997.

before the 1996 elections, said the choices for the rural areas around Durban were between standing as a regional council on its own or being attached to Zululand "which did not make sense because of all the functional links with the metro. So we chose the first solution but with a condition: that there would be transfer from the metro. This was not done."[242]

At the end of 1996, the Durban metropolitan council approved the transfer of R34,9 million from the Port Natal/Ebhodwe JSB to the new iLembe regional council. This enabled it to manage the remaining 29 projects which were part of the 133 projects undertaken by the JSB (for which it received R270,3 million).[243] But Durban keeps 100% of the income raised in its area. This change from the past practice in which cross-subsidy took place, is jeopardising the future of the regional council. "We are looking at R200-million of excess levies raised in the metro and perhaps we could ask for 39% of that, which means R70-million."[244] This transfer seems justified not only because it took place in the past but also because of the functional links which exist between the two entities. Rural people in Ndwedwe for example, do not have any other solution than to come and work in the metro but it is the regional council which is responsible for providing the basic services to rural dwellers:

> *The regional council is not viable because of the lack of resources. It is not viable to stand on our own. We do not want to increase the rates of the levies because even a 20% hike on R7 million it is not enough. Besides, we are dependent on the increases which take place in Durban. If our increase is greater than in the metro, the business is going there. The real solution would be to merge again.*[245]

3.2 - The structure as stumbling block

Local councils cannot deliver because of some external and conjunctural factors over which they have no control. The issue of boundaries which excluded tribal areas is a political one. There are also obstacles to innovation which are caused by local authorities themselves.

With the new challenges facing local authorities, in particular the new developmental role which they are supposed to fulfil, major changes in the structure itself might have been expected:

> *The old institutional framework will not permit local government to deliver on its new democratic municipal mandates, namely, to overcome*

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[241] Interview with an iLembe regional councillor.
[242] Interview with cllr A. Horton, exco member of iLembe regional council and chairman of the exco of Dolphin Coast TLC, Ballito, 22.10.1997.
[243] The Mercury, 12.03.1997.
[244] Interview with Mr S. V. Zondi, Administrative officer, iLembe regional council, Durban, 29.08.1997.

the injustices and imbalances of apartheid and promote development and prosperity for all.[246]

But if ideas are quick to be articulated, their translation into acts is very slow.

3.2.1 - Administrative organisation

One of the challenges for a 'developmental' municipality, is that it has to learn how to negotiate with a multitude of partners. In South Africa, as well as in developed areas such as Europe and North America, while local authorities have been organised for the direct provision of services, "increasingly, they... have to work with and through other organisations. This requires from local authorities... a new capacity for the management of influence rather than the management of actions."[247]

Whether it is the requirement to be democratic, in the sense that it has to involve its population in the decision-making process, or whether it is about dealing with other spheres of government or the private sector, local councils are finding themselves in a system where communication and negotiations are essential. But:

> ... *although most local councils have the capacity to regulate and control development, they are not geared to deal with negotiated solutions, community driven development, integration between internal and external organisations, being supportive of spatial restructuring, conflict resolution or grasping the broader metro context.*[248]

Local authorities have numerous representatives on many other organisations. In order to facilitate the networking, councillors sit onto different institutions' boards which have an influence on their local authorities. Those are often valuable but unused resources. Councillors tend to disregard their role as members of those organisations. For example, the chairman of the iNdlovu regional council who is very outspoken during council meetings, "sleep during most of the meetings organised by the Land Affairs department."[249]

The necessity of developing co-operation between local authorities and external partners is echoed by the need to increase inter-departmental collaboration. We have seen the legacies of apartheid on the local administration structures and Swilling is not tender with them:

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[245] Mr Buks Pretorius, chief executive officer of the iLembe regional council, Durban, 05.09.1997.
[246] Ministry of Constitutional Development, Green Paper, p.6.
[247] Stewart J., 'The changing organisation and management of local authorities', in Stewart J., Stoker G. (eds.), The Future of Local Government, London, MacMillan, 1989, p.178.
[248] Martens A., Williamson A., Urban Form, JSC Rapid Action Programme, Durban Metro, October 1996, p.14.
[249] Interview with a Land Affairs official.

> *Besides being racially structured,* [local government administrations] *were also built up over decades to be extremely hierarchical, technocratic, multi-layered, inward looking bureaucracies that may be incapable of being developmental and user-friendly.*[250]

One of the main roles of the new municipality is to treat development in a holistic way and to stop thinking along the divided lines of this and that technical department. But municipal administrations were designed according to a strong hierarchical and departmental pattern. The result is a lack of communication between the departments and even competition between them. Each is regarded by its head as a 'little empire' that he/she has to protect. This is preventing the co-ordinated provision of municipal services, let alone the co-ordination with other service providers. Obed Mlaba, mayor of the metropolitan area, complained to the press about the lack of co-ordination between his departments. He said that there had been complaints that "Durban's left hand often did not know what its right hand was doing."[251] This was also one of the problems identified by the Durban local councils in their submission to the Department of Constitutional Affairs: "Internal divisions between departments within councils impede the implementation of strategic and integrated planning."[252]

As the White Paper points out, in many cases the structures and systems of better established municipal administrations (usually former white municipalities) were adopted and extended to 'absorb' staff from the smaller administrations (usually former BLAs): "this approach... did not result in new, more effective or more equitable ways of working. Minimal changes were made to organisational structure."[253]

During the visits paid to different local authorities in KwaZulu-Natal, the researcher did not notice any radical changes to the ways in which the municipality was run. The same old departments were in place and no radical measures such as those taken by the Germiston TLC (Gauteng)[254] was noticed. The more progressive local authorities in KwaZulu-Natal have created a new post called "RDP manager", "Masakhane officer" or "development co-ordinator" who is expected to change the whole municipal approach to development. But with the notable exception of the Inner West local council,[255] the post created has no authority in the

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[250] Swilling M., 'Building democratic local urban governance in Southern Africa', in Swilling M. (ed), Governing Africa's Cities, Johannesburg, Witwatersrand University Press, 1997, p.224.
[251] The Mercury, 14.04.1998.
[252] Joint Councils of the Durban Metropolitan Area, Response to the Discussion Document, p.7.
[253] Ministry of Constitutional Development, White Paper, p.91.
[254] Chipkin notes a change in the internal organisation of the Germiston municipal administration where a Department for Reconstruction and Development was created. It is supervising all the other departments in order to "steamroll transformation". Chipkin I., Thulare P., The Limits of Governance: Prospects for Local Government after the Katorus Wars, Johannesburg, Centre for Policy Studies' Transition Series, Research report No. 52, March 1997, p.59.
[255] The municipality created two new posts: one of deputy town clerk and one of Executive Director of Planning and Development. See Inner West local council, Agenda of the Exco, 2101.1997.

municipal hierarchy, no power to enforce a vision or to bring the different departments together.

This means that if the town clerk himself is not committed to better intra-departmental collaboration and is not convinced of the benefits of public consultation, the post has no impact. Most of the CEOs interviewed, especially the ones who had just been appointed by the new council, are committed to the process of transforming the administration so that the municipality can become a more efficient tool to promote development. Local councils such as Inner West, Outer West[256] and Ladysmith benefit from town clerks with 'a vision'. However, if the vision is not translated into the structure of the municipality, the process will always be dependent on the good will of a few people at the top of the hierarchy and nothing will be institutionalised. This is what seems to have happened in Ladysmith, where the council resolved in December 1995 (before the elections) to create a post of development co-ordinator in the department of the town secretary. This post was about the management of the RDP and the Masakhane campaign.[257] However, the post was only filled in January 1997 and is not located in the town secretary's office but in the borough engineer's department.[258] This means that even if the development officer position is a 'political post' in the sense that he is responsible for all the new planning projects such as LED, IDF, RDP, he is still considered as a technician. The town clerk, even if 'progressive', is the only one with a cross-departmental vision, the initiatives are always coming from his office.

Another concentration of power linked to bad administrative organisation can occur around the mayor's office. This is what is happening in the Pietermaritzburg/Msunduzi TLC. Responding to a previous article in the local press from a DP councillor, Siphiwe Gwala - then chairman of the exco - was at pains to justify the increasing expenditures of the mayor's office. However, he emphasised that the office needed secondment "for liaising with the ministry of Economic Affairs on the SDI. This is necessary because economic development does not fit in any existing department. The council agreed in giving the mayor the responsibility for driving the SDI and reports are made to the relevant sub-committee."[259] This concentration of power in a political office, if not properly managed can demotivate the different departments involved in the SDI, making them potential obstructors of the process.

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[256] The Outer West local council was looking in October 1997 for a community liaison officer, who was placed under the authority of a development co-ordinator. His role was to assist in setting up development committees, and facilitating the liaison between community, ward councillors and officials. The Mercury, 05.10.1997.

[257] Ladysmith transitional local council, Agenda of the Exco, 14.08.1996.

[258] Interview with a Ladysmith municipal employee.

[259] Natal Witness, 21.081997.

Innovation and structural change might have been expected particularly in the case of regional councils, given that they themselves are relatively new.[260] Indeed some, are totally new. But this has not been the case and the principle adopted by the RCs, compared to the time of the JSBs is "new name but same dynamics."[261] The Zululand regional council in Ulundi, like iLembe, is a new administration. Previously, the area used to be run by the Zululand JSB based in Richards Bay. In June 1997, the council adopted an 'old style' structure made of a department of:

- Management and Administration services;
- Technical services;
- Three regional offices (in each, a community development officer is employed);
- Transport;
- Financial services;
- The department of the CEO.[262]

Many ANC regional councillors criticise the structure itself and its lack of evolution but certain IFP councillors also speak out, despite their party's investment in the system. A Zululand regional councillor stated that "the regional council is beginning to be unpopular because it is not delivering. We have a very small budget and it is an apartheid structure. We are not delivering for the moment, the interests of people are not taken into account by councillors."[263]

The excuse given by most of the interviewees for the lack of delivery was that regional councils do not have enough funds. It is true that they lack resources and that too much money is spent on operating costs. Given their high numbers, councillors' allowances account for much of these. But regional councils could take the political decision to redirect some funds which are for the moment spent on projects like the fencing of schools. Because those actions are not integrated into a coherent strategy, those projects are a drop in the ocean. The local authority money could be better spent on facilitating the liaison between the rural population and the regional councils and on looking for some other forms of funding. These expenditures are more diffuse (not necessarily linked with visible projects) but would be more developmental than the present pattern of spending. For example, the iLembe regional council

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[260] The Premier of the province declared in front of the iNdlovu regional council that "The cities have acquired their forms and their patterns of government, administration and service delivery. (...) they are going through a necessary transformation, but the mould of the administration is very much determined by the momentum of city processes. In regional government, you are dealing with a developing situation. There are more options, more choices, more fundamental activity in the setting of priorities in councils which encompass developing towns and rural areas. (...) your task allows more creativity than mine." Speech by B. S. Ngubane, iNdlovu full council meeting, 29.05.1997.

[261] uThungulu regional council's newsletter, Ezimtoti, No. 1, May 1997, p.2.

[262] Zululand regional council, 1997/1998 budget, (approved the 12.06.1997).

[263] Anonymous interview with a Zululand regional councillor.

appointed only two community liaison officers for the four sub-regions, because of a moratorium on the expenditure.[264] This number should be increased, given that those officers can play an important role in rural development. But in practice, the development officers are not put in place because the small amount of money available is spent on a few small projects.

Besides, in iLembe, it is a man more acquainted with technical than developmental issues (the director of Technical Services) who will fulfil the functions of RDP manager with the help of consultants.[265] We can see here the same pattern as in the urban KwaZulu-Natal local authorities. The post which is supposed to promote development, attract external funds or co-ordinate the local authority activities internally and with other partners, is not filled at all or simply attached to the Technical Department which is not in general known for its capacity of innovation.

3.2.2 - Slowness of the decisions

The political head of the local authority is often accused of being responsible for the slowness (and sometimes the total absence) of decisions. In general, two factors are identified as being the major stumbling blocks to a speedy and efficient decision-making process: political parties and the committee system.

3.2.2.1 - Political parties as scapegoats

On the same pattern as parties are supposed to obstruct democracy, 'politics' is also accused of preventing speedy decision making and as a consequence, 'development'. Dennis Cockhead, chairman of the non-aligned group and deputy-mayor of the Western Council before the elections, stated that "the involvement of political parties tends to place party political interests above the real interest of the communities - the rendering of services."[266] There was a strong feeling before the elections that "matters of development need to be depoliticised; we cannot afford development to be delayed because of political differences."[267] If this was recognised as a national problem, the low intensity war between the ANC and the IFP has made these statements particularly relevant in KwaZulu-Natal. The fear has been that in hung councils, the decision-making process would be paralysed by sterile political battles.

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[264] iLembe regional council, Agenda of the Council, 04.11.1997.
[265] Interview with a Zululand regional council's employee.
[266] The Mercury, 15.8.1995.
[267] Coovadia C., 'Developing a culture of participation', in Graham P. (ed.), Governing at Local Level, A Resource for Community Leaders, Rondebosch, IDASA, 1995, p.40.

In iNdlovu, according to an IFP councillor, "the ANC has an obstructing attitude because if the RC fails to deliver, it will be seen to have been the IFP fault." But it is difficult to mark the difference between the political split and the split between urban and rural councillors. In iLembe, the atmosphere in council is tense between the parties, not because the ANC enjoys a strong position, but because of the influence of the ANC metropolitan council on the lives of the rural people outside its boundaries. In this regional council, in nearly every meeting, the ANC representatives on exco accuse the IFP of partiality, for example keeping the information to themselves. The KwaDukuza/Stanger council is also said to be "paralysed because of political problems and does not deliver."[268]

However, a study of the day-to-day business of KwaZulu-Natal local authorities shows that conflict and line of oppositions inside the councils are not clearly linked to obstructive parties. In most of the regional councils, because the IFP is totally dominant, political bickering does not exist. One of the most important decisions that a council has to take, the vote on the budget, usually occurs without any political tension among the councillors. The passing of the 1997/1998 budget in uThukela was done in 30 seconds and was even proposed by the ANC.[269] A Ladysmith councillor stated that "the opposition NP/ANC in council is always political [sic], it is never based on practical aspects. We agree."[270]

The same phenomenon can even be observed in politically sensitive areas or in hung councils. In iNdlovu, the opposition to the budget came only from the DP councillors. When asked what kind of topics divided the council on a political party basis, councillors had some difficulties in recalling politically divisive issues. If they did, it was usually some minor disagreements. Even in Estcourt which is politically a very sensitive area, a councillor stated that one of the main subjects of disagreement between the parties was the funding of the Battle Field route.[271] In the councils which are said to be dominated by party politics,[272] and where acrimonious debates take place, such as KwaDukuza/Stanger, "this does not hamper the decision-making process. It is just a problem of publicity."[273]

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[268] Interview with cllr A. Horton, member of the exco of iLembe regional council and chairman of the exco of Dolphin Coast TLC, Ballito, 22.10.1997.
[269] Full council meeting, uThukela regional council, 30.05.1997. The researcher was present.
[270] Interview with cllr C. M. Sardiwalla, ANC PR councillor, exco member and leader of the ANC caucus of the Ladysmith/Emnambithi council, Ladysmith, 21.08.1997.
[271] Interview with cllr H. R. Chotoo, deputy-mayor of the Estcourt TLC, Estcourt, 27.11.1996.
[272] The council comprises nine ANC, a coalition of eight IFP and NP and some independents. "It is a battle to get the independents' votes." Interview with cllr R. Naicker, Independent exco member of the Stanger TLC, Tongaat, 07.11.1997.
[273] Ibid.

It seems that after the initial battle over the control of top positions, the pattern of alliances[274] and the political composition of the standing committees,[275] the councillors from different parties are learning more and more to work together in council. It is always difficult to measure the quality of the relationship between different parties in council. Statements assuring improvement[276] are often made but cannot easily be checked. However, the progress is obvious in cases where just after the elections, the political battle was open and virulent. In Ladysmith, the ANC and the NP engaged in a fierce battle which transformed council meetings into marathons taking place from 5.30 p.m. to 2 a.m. the next morning.[277] In the few months after the elections, every move from the NP was interpreted as trying to undermine the ANC-dominated council. An ANC councillor stated that "the NP councillors wanted to invite us to a function at the beginning, so that we could know each other better but we refused because we were afraid, we thought it was a trap." One year after, the CEO was making positive statements about the way the council worked.[278] This was confirmed by senior councillors.[279]

Contrary to the common opinion, parties can even be an advantage when it comes to decision-making. The deputy town clerk of the Pietermaritzburg/Msunduzi TLC states that the involvement of political parties at local government level is positive because Pietermaritzburg has a big council. "The party expresses its view, not each councillor. The council is like a small parliament."[280] In this case, the official encourages the party to caucus. The importance of those meetings in facilitating the decision-making process was outlined by the councillors when they asked the iNdlovu regional administration to provide them with caucus facilities just before the exco and council meetings. An ANC councillor stated that "if we do not caucus, there is chaos in the meeting."[281]

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[274] In Richards Bay, the IFP and NP formed a minority coalition after the elections, to outmanoeuvre the ANC for control of the council. B. B. Biyela (IFP) was elected with the support of NP and independents. The deputy-mayor post went to an NP councillor. Business Day, 05.07.1996.

[275] For example, in the Ladysmith TLC, the issue of chairmanship of the sub-committees was very contentious: "The NP wanted to chair one of them and there was a problem of misunderstanding between the ANC and the NP chair and everything got mixed up. For the moment, they do not have any chairmanship but they sit on the committees." Interview with cllr M. P. Kathide, ANC ward councillor, exco member of the Ladysmith/Emnambithi council, Ladysmith, 20.08.1997

[276] "Since the beginning I have seen great improvements in the dialogue between the councillors. There was a lot of suspicion at the beginning but now we become more tolerant". Interview with cllr Lydia Johnson, mayor North Central council, ANC PR councillor, Durban, 08.05.1997.

[277] The Mercury, 07.11.1996.

[278] "The two major political parties are working reasonably well together on issues worthwhile, comparatively speaking with other places. They score points for the press but the decisions are taken and they do not prevent the administration from working properly." Interview with D. J. Vermeulen, chief executive of Ladysmith/Emnambithi TLC, Ladysmith, 20.08.1997.

[279] "The co-operation between political parties is better. I was in council in 1994/95 and it was very difficult. Issues were not discussed." Interview with cllr S. D. S. Vilakazi, mayor of Ladysmith /Emnambithi TLC, ANC PR councillor, Ladysmith, 21.08.1997.

[280] Interview with Rob Haswell, acting town clerk of the Pietermaritzburg/Msunduzi TLC, 19.11.1996.

[281] Statement made during the iNdlovu council meeting, Pietermaritzburg, 29.05.1997. The researcher was present.

The importance of party conflict as a threat to the day-to-day running of the local authority has been over-estimated. In practice, the threats that the officials and the 'white' political parties represent for the IFP and the ANC, coupled with a general inexperience and lack of understanding of the consequences of the council's decisions bring the ANC and the IFP together in most of the councils. The lines of opposition are racial, especially in regional councils.

There, the white councillors perceive a general hostility against them, and they understand it along racial lines. What the councillors express as personal feelings is sometimes confirmed by a laconic sentence in some minutes. During a meeting of the uMzinyathi exco, the chairperson pointed out the need to "to bury political affiliation and racism in council."[282]

In some rare instances, the racial tension is obvious. An illustration was given during the passing of the iNdlovu 1997/1998 budget.[283] A notably acrimonious debate raged between black and white rural councillors. The DP won three seats during the elections and they were determined during the passing of the budget not to keep a low profile on certain expenditures they found extravagant. They voiced their concern at the amount set aside for the councillors' pension funds, and the type of car to be bought for the regional council chairman. The attack on the three councillors (and the few NP councillors who joined them during the course of the discussion) immediately followed. The other regional councillors accused them of "not being aware of the changes" and "not understanding the needs of the councillors because they are privileged." Some councillors proposed that the "ANC and IFP join hands to stop people from stopping development, because development is also giving money to councillors [sic]. We should start to caucus together and stop them." Black and Indian councillors across political parties lines had allied themselves against white councillors.

What seems obvious to them is that there is "an animosity against white councillors."[284] White councillors are very aware of the colour of their skin and most of them are careful when talking in front of the council. A regional councillor recalls[285] that:

> *For a long time I was very careful about the fact that I am the only white on the exco and I did not want to appear as wanting to lead the debates. So I did not say anything for a long time. Now I am beginning to speak and the chairman is actually giving me the opportunity to speak very often.*

3.2.2.2 - Committee system

[282] uMzinyathi regional council, Minutes of the Exco, 19.06.1997.
[283] iNdlovu council meeting, Pietermaritzburg, 29.05.1997. The researcher was present.
[284] Interview with cllr Tony Cole, mayor of Winterton, Winterton, 25.01.1997.

The second explanation put forward for the lack of effective decision-making is the committee system which is in place in all the local authorities.[286] It can be claimed that this system is preventing development, in the sense that it obstructs co-ordinated long-term planning for services. In urban areas, the fragmented approach of the administration is echoed by the organisation of the council in technical working groups. In many municipalities, there are too many committees and the work is fragmented between departments with too little overall guidance. It is only in the exco and during the caucus meetings that a global vision can be articulated. Some councils have tried to overcome the fragmentation of the committee approach by establishing committees which encompass different departments and have a broader approach. An example is the economic development and planning indaba created in 1998 in Pietermaritzburg.[287] The Durban councils have also set up some "integrated area work groups" consisting of officials from different services and councillors for specific areas (such as Inanda).[288] But as we have seen, this measure is not backed by the creation of a specific department promoting co-ordination between departments, led by strong political and technical figures.

The committee system is being criticised for another reason. It is said to delay the decision making process unduly by creating numerous sub-committees which have to give their opinions on every issues. The complaints about the system come in general from DP and NP councillors. They argue that the sub-committees are delaying the decision-making process[289] and that no one takes any decision.[290] The two parties understand that it is a means for councillors to learn about issues but "At whose expense? The business people are waiting for decisions."[291]

For example in Pietermaritzburg, besides the standing committees in charge of preparing proposals to the exco,[292] there is a multitude of sub-committees called task teams or working groups, with no power at all except that of making preliminary enquiries into very narrowly defined topics. The number of those working committees varies, because they are set up

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[285] Anonymous interview with a regional councillor.
[286] See chapter 8, pp.323-326.
[287] Sunday Tribune, 08.03.1998.
[288] Joint Councils of the Durban Metropolitan Area, Response to the Discussion Document, p.21.
[289] One has however to be careful when it comes to identify the causes for lengthy deliberations. A complaint may necessitate long investigations, the collection of facts and evidence of similar cases. These delays are not due to incompetence or red tape but are part of the working of democracy.
[290] Interview with cllr P. Reid, DP ward councillor of the Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 21.01.1997.
[291] Interview with cllr R. Keys, DP councillor of the Pietermaritzburg/Msunduzi TLC and exco member of the of iNdlovu regional council, Pietermaritzburg, 29.01.1997.

according to needs. At the beginning of 1997, there were 40 of them and most of the councillors belong to at least 10.[293] The street lighting committee would meet and make recommendations to the social development and protection services indaba. This body would in turn make a proposal to the executive indaba, whose proposal would come before the council for approval. This organisation reassures councillors in that they think they are in control of every single decision that has to be taken. As a consequence, in Ladysmith, a councillor even proposed to increase the number of standing committees drastically. The aim was to "facilitate the interaction between heads of departments and community."[294] He proposed to establish 43 committees in total, ranging from street trading to low income settlements. The town clerk explained the impossibility of such a proposal and stated that these meetings could only have the status of *ad hoc* committees.[295]

In the regional councils, MEC Miller has been very firm on the number of committees the council could establish. While under the JSB system, the councillors were organised in technical and geographical groups, after the elections the regional councillors were not allowed to set up more than five committees (be they geographical, technical or a mix). The emphasis is clearly put on the geographical approach since the sub-regions are demarcated.[296] This enables the councillors sitting at that level to have a holistic approach to the problems of their area but most of them complain that it is too difficult for them to grasp this global reality and that a technical approach would be more simple to understand.

It is obvious that in urban and rural areas, local councillors need the committee system. It is the way they are used by councillors rather than their existence that should be questioned. They are a positive tool which enables councillors to get acquainted with an issue but they are "time-consuming and inappropriate for speedy decision-making."[297] The solution which is often proposed is to increase the delegation of powers and functions to standing committees. But this is unlikely to be of any help as long as the councillors are not themselves able to assume a decision in front of the officials and the communities. The readings of numerous

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[292] In the Pietermaritzburg/Msunduzi TLC, there are five technical indabas plus the exco: land use and housing, engineering service, social development and protection services, human resources, urbanisation and economy.

[293] Interview with cllr K. P. Chetty, ANC ward councillor of Pietermaritzburg/Msunduzi TLC, Pietermaritzburg, 21.01.1997.

[294] Ladysmith transitional local council, Minutes of the Exco, 17.07.1996.

[295] Ladysmith transitional local council, Agenda of the Exco, 14.08.1996.

[296] But allowed or not, the regional councils have already set up numerous sub-committees. The iNdlovu regional council was officially allowed to set up a tourism committee in addition of the sub-regional committees. (iNdlovu regional council, Minutes of the Exco, 25.02.1997). The uMzinyathi regional council took the initiative to set up by itself some functional committees such as Emergency Management Services, Water and Sanitation, and Traditional Leaders. (Interview with cllr W. Schoeman, independent councillor, member of the exco of uMzinyati regional council and member of the Newcastle TLC, 21.04.1997).

[297] Joint Councils of the Durban Metropolitan Area, Response to the Discussion Document, p.21.

agendas and minutes have shown that in all local authorities, items considered in council are often reported to the next exco, standing committee or working committee. This can last for months. This is a proof of insecurity on the side of councillors. They cannot reach a position, not because of political bickering in council but because they are not confident enough that it is the right one.

CONCLUSION

It is clear that many expectations are directed at local authorities and that some are realistic, while others are not. The fact that local government is recognised as a sphere of government brings rights, but also responsibilities which councillors are sometimes not able to assume. From a development point of view, the institution of local government is in an ideal position to identify the needs of the community, to liaise with the population, to make them participate. Because elective, it has in theory the authority and legitimacy to take decisions on behalf of communities. It has the means to act on the environment which can favour investors. Local authorities have an influence on the local economy through the fact that they receive rates, employ thousands of people, set the price for water and electricity, may favour investors, own lands. As they are also employers, either directly or through contracts, they are at the forefront of policies which can have an impact on local industry. Through affirmative action or procurement policies, they can fulfil their social responsibility.

In the future, several threats could impede local government from playing its developmental role. We have seen that the other spheres of government are jeopardising the developmental function of the municipalities. Some positive efforts of co-ordination are initiated by the regional councils or by line ministries (such as the DWAF) and this augurs well for the future. However, as long as the other actors (national and provincial departments) are not bound by the powers of local authorities to plan for development, the process will lack coherence and direction.

What is noticeable also is the lack of adaptation of local authorities to their new developmental role. The local administrative organisation is not very much questioned for the moment in the local authorities. Councillors inherited a structure which was directed neither at promoting popular participation nor economic and social development, although these are now the priorities which councillors - and officials - must obey.

Local authorities are often still associated with red tape and slowness of decisions. In KwaZulu-Natal, political parties are wrongly targeted as culprits. In fact, the stumbling blocks are more on the side of an incoherent legislation and a lack of proper control over the development of many areas. If councillors are to be blamed, it is not so much their political

allegiance and divisions that have to be taken into account but their lack of leadership. McCarthy et al. remind us of the importance of this factor for sound local economic development:

> *The local institutional environment and the character of local leadership are central to the relative success of LED in smaller towns. The variable quality of local institutions and local leadership appear to have more impact in smaller as opposed to larger urban contexts, because the scale of smaller urban systems is such that they are more economically volatile and susceptible to intervention... Institutions and leadership are relevant for all LED in all urban settings because it is only properly resourced institutions which have capacity to follow through on the implementation of policy and strategy and it is only quality leadership which* [...can] *decide upon appropriate policy strategy.*[298]

McCarthy considers local government as being the key support to LED because "it is difficult to think of any South Africa or international example of successful LED where local government has not been a significant player. This is because the authority of a local council is required to give necessary physical expression to LED strategies."[299]

This is this authority which is lacking at the local level and the problem of leadership is the one which is the most likely to undermine the capacity of local authority to fulfil its developmental role.

[298] McCarthy, Hindson, Peart, A Local Economic Strategy, pp.25, 26.
[299] Ibid., p.27.

CONCLUSION

> *The way the term 'transformation' is used suggests that it is seen as "a reconstructive moment rather than the oppositional which gives transformation its determining identity".*[1]

Local government occupied a central position in the apartheid system because it was at this level that separate development was the most visible. It was the local authorities' boundaries which physically separated the racial groups, more than the bantustan's boundaries. Any real concessions introduced by the central government in the local tier would have made the entire system collapse. This is why, despite some attempts at reform, local authorities before 1994-1995 still presided over a fragmented country, where different communities enjoyed different kinds of rights, opportunities and services.

This is also why local government has always been at the centre of the struggle of the liberation movement. Local authorities were targeted by the ANC as instruments of exploitation and symbols of injustice. In KwaZulu-Natal, black local authorities were considered by the liberation movement to be a reactionary force in the hands of Inkatha. Local authorities became in the province an ANC target which symbolised apartheid policies and the collusion between the National Party and the IFP.

If local government was at the centre of the apartheid system and of the struggle against it, it is now at the core of the reconstruction and reconciliation process of the country. What is at stake through the transformation of local institutions, is the creation of a new relationship between the citizens and the state, a new justice in the allocation of resources and a new sense of common belonging and common interest across races. Official discourses about transformation of local government, such as the rhetoric found in the White Paper, are very ambitious about the process. Local authorities are asked to undertake a full revolutionary process as defined by Huntington:

> *A full scale revolution involves the destruction of the old political institutions and patterns of legitimacy, the mobilisation of new groups into politics, the redefinition of the political community, the acceptance of new political values and new concepts of political legitimacy, the conquest of power by a new, more dynamic political elite, and the creation of new and stronger political institutions. ... The manners and accepted patterns of behaviour of the previously corrupt society are*

[1] Singh M., 'Transformation time!', Transformation 17, Durban, University of Natal, Department of Economic History, 1992, p.51.

replaced by an initially highly Spartan and Puritan regimen... In its positive phase, revolution gives rise to new, more demanding sources of morality, authority and discipline.[2]

LOCAL AUTHORITIES DURING APARTHEID

Before the pre-interim phase, local government in white areas was mainly a local administration run by officials, with no real political head (or a political head which had to follow the central government policy) in charge of providing some first-world services to the white minority. In white local authorities (WLAs), local officials were more or less free to run the town as they pleased. Because they only had to cater for the needs of a small number of people who could pay for the services they received, local finances were healthy and the services provided of a high quality.

In black urban areas, local authorities were created to cater for the needs of the black population but they did not have any autonomy in terms of administration or decision-making, neither did they have the financial means to meet the needs of the majority. Those bodies were controlled by the apartheid administration and were indeed a means to enforce apartheid policy.

In rural areas, the presence of the State was weak and the rural communities were either dependent on farmers for services or on tribal authorities nominated by the apartheid government.

As a consequence, local authorities were :

- Controlled by the central State, and had no experience in decision-making (except in the WLAs). It was not a political tier, attracting therefore very few political parties. It was rather a technical tier, in charge of providing services and officials had the uper hand on the decisions.
- Lacking legitimacy because they were a tool of the apartheid State.
- Symbolising division, marking the limits of a fragmented space with different rules, administrations, culture of service and standards.

[2] Huntington S. P., Political Order in Changing Societies, New Haven and London, Yale University Press, 1968, pp.308 and 312.

THE NEW MODEL AND THE LOCAL ELECTIONS

The negotiations which shaped post-apartheid South Africa took place both at national and local levels. What was at stake was to find a model which would erase "the physical and mental boundaries" and to create a more inclusive basis for political power.

At the local level, the option chosen was to amalgamate the different local bodies to create a joint administration between economically and historically bound areas. The process framed in the Local Government Transition Act allowed transformation to be based on a negotiated process at local level. It allowed local stakeholders to "imagine" the new territory they were going to live in. White, Indian and black representatives were asked to decide about their common future and were assured to have a significant representation in the first elections. The real legitimacy of the present local authorities is not derived from the 1996 local elections but from the time of the negotiating forums thanks to their emphasis on inclusivity and representivity.

But in rural areas, where there was no real history of local government, no organised stakeholders who could negotiate the future, no opportunity to form forums, and where voter education was weak, the model was decided upon by the province and political parties. Some interest groups (such as amaKosi, levy payers and women) were drawn into the process but with little done to explain what was at stake at the local level. There, neither the pre-interim phase nor the elections (where the registration rate was the weakest) helped democratic consolidation.

We have said that local elections were not a "founding moment" in the South African democratic process. In KwaZulu-Natal, they were not used as an opportunity to show to an apathetic local electorate what local government was about and what the different parties had to propose at local level. The discourse was blurred by national issues and national politics. Local elections became a political test, a pawn in a wider political game.

Furthermore, local elections in KwaZulu-Natal, entrenched no-go areas, they clearly demarcated political zones, institutionalising in some cases (such as Estcourt) a fragile balance of power, or officially marking a whole local authority with a political seal (Ulundi). Thus, the first local elections were not a founding moment (compared to the national elections) where democracy was consolidated by the votes. Rather, it is in the day-to-day running of the new local authority, in the interactions of councillors, officials, communities, provincial and national government, that the "new South Africa" is emerging.

THE ACTORS : COUNCILLORS AND OFFICIALS

The principal sign of 'transformation' is manifest in the composition of councils. Since 1996 and for the first time, local councils in urban and rural areas are composed of democratically elected representatives, coming 'from the communities'.

Chapter 4 of this study explored this change of profile of local councillors. The general conclusion is that, unlike to the past, one cannot give easily a description of the 'typical councillor'. Whereas before the interim-phase, they were broadly-speaking middle-aged men who had some spare time to spend for some civic duties, today councillors are as diverse as the people of South Africa. Interviews were carried out with attorneys who had been sitting in council for more than ten years and with unemployed councillors who have not yet started to grapple with their tasks.

> *Participants in the transition process have had to look at their own living environments through the eyes of people from different and unknown 'worlds' just a few kilometres away from their homes.*[3]

What is certain however is that the local elections put in place men and women who, diverse as they are, are of a new type, politicians eager to gain control of the decision-making process. During the elections, candidates run on a political ticket except in the small urban councils. In rural areas the battle was fought solely on those lines. Politics has invested the local sphere.

New attitudes are asked from the councillors. Since June 1996, the whites councillors who already had experience of local government, have had to adapt to a new situation whereby politics entered the realm of local government. They had to adapt to new decision-making processes, with the increasing role of parties, caucuses and opposition groups. They had to cope with the necessity of taking major policy decisions on development and democratisation whereas in the past what was at stake was issues such as grass cuttings. Finally they had to take into account in their deliberations, the interest of a new territory with new communities. They are expected to work with the Indian, 'coloured' or black councillors in "governments of local unity"[4] for the benefit of all the people of South Africa.

Even if they previously occupied a seat in a BLA or LAC, this second category of councillors never exercised real power on public policies and never had to take into account all the constraints which influence the decision-making process. Those councillors have very limited knowledge of administration, development processes or popular participation. The

[3] Ministry of Constitutional Development, White Paper, p.129.

political activists with a strong local profile sit on exco, but the majority of them are rather new in politics. They have their own vision of their "job" as a councillor, very different from their white counterparts. They tend to infringe on the officials' functions and consider themselves as "fathers of their communities". But one thing is certain, they are claiming to be political animals and expect to run their municipality. In an institution which was inherited from the past ("old style" officials, working documents in English, no tradition of parties...) this is a difficult task.

The environment in which local councillors are working is not easy either. Local authorities inherited a bad image from the past and the majority have insufficient financial means to meet expectations. At local level, competing powers (warlords, traditional leaders and at another level CBOs, NGOs, development forums) are reference points for other sources of legitimacy. Councillors elected on PR often feel that they own their seats to their parties rather than to the electorate. Local authorities are still weak institutions in terms of legitimacy (cf. the opposition movements to council policies in white and black areas) but at the same time, councillors are the only public representatives elected on a constituency basis. This inevitably creates high expectations of them and their office.

Local councils are the structures where, to put it rather simplistically, officials who once had charge of enforcing apartheid policies are exposed on a day-to-day basis to anti-apartheid politicians. The transformation asked from the officials is tremendous. They have to adapt to a new logic, a new territory, a new relationship with political parties' councillors if not "political councillors". They have to adopt new attitude of consultation, participation, accountability. Whereas before the 1996 local elections, white officials were in post to provide services to the white community, since 1996 they have been asked to bring 'development' to black and Indian areas.

The study did not argue that officials cannot, or are unwilling, to adapt to those challenges. It concentrated on the councillors' feelings and their statement is clear: for the majority, officials are preventing transformation of local government and one solution is to change them. Affirmative action is seen by most of the local councillors as a very important - if not the main - indicator to measure the extent of the 'change' or 'transformation' of local government. Whether ANC or IFP, whether urban or rural, councillors see affirmative action and a "change in attitude of officials"[5] as a prerequisite as well as a manifestation in itself of the changes

[4] Wards were designed in such a way to ensure that all the communities whether white or black ('black' meaning black, Indian or 'coloured') enjoyed 50% of representation independently of their numerical importance.

[5] Interview with cllr L. Naidoo, ANC chairman of the executive committee of the North local council and ward councillor, Umhlanga, 2310.1997.

undergone by their local authority. Moreover, the political appointment of civil servants is no longer taboo, but widely accepted. Promoting 'the right vision' for local government transformation means in general adopting a new philosophy and attitude. In some cases, the way to ensure that this vision will be implemented is to appoint former or present politicians to top administrative positions.

LIMITS OF THE TRANSFORMATION IN TERMS OF LEGITIMACY

It is undeniable that local government has changed a great deal in a very short period of time. Since the beginning of the pre-interim phase (1994/1995), the model, the boundaries, the composition of the councils, the duties of the officials, have undergone major changes. In Durban, a two-tier structure with large local councils is managing the city. In rural areas, regional councils have established sub-regional committees to get closer to the rural communities. Everywhere, new boundaries were drawn to define new territories. At least from an administrative point of view, local authorities are now linking together formerly racially separated territories. For the first time in the history of South Africa, white, black, Indian and 'coloured' areas are administered by the same institution and governed by the same political head. We have seen that these boundaries are not yet perfect but they should be improved in the near future[6]

These changes may have dramatically (and literally) altered the face and the form of local government. But they do not amount to a revolution.

Local government as a sphere

Firstly, local government is not in practice a sphere, i.e. is not considered by provincial or national government as a source of power on its own. In the White Paper on Local

[6] Local authorities are themselves one of the main stumbling blocks to local economic development, because of the artificial divisions introduced by the boundaries between TLCs and the dependent semi-rural or informally urbanised areas which surround them. But functional linkages and economies of scale are likely to be important criteria when the boundaries are redrawn. For example, it is not taboo anymore to question the validity of the existence of two TLCs comprising white areas next to each other. Michael Sutcliffe in a newspaper article, asks why nobody envisages a merger between Empangeni and Richards Bay; Dundee-Glencoe; Wartburg-Cool Air-Dalton; Port Shepstone-Hibberdene-Margate. (The Mercury, 11.03.1998). The White Paper suggests (cf. section A) that municipalities should follow more closely the boundaries of functional human settlements rather than being simply the composite of administrations which emerged under apartheid. Minister Moosa emphasised during a conference after the launch of the White Paper on Local Government, that an independent demarcation board "will redraw the boundaries according to rational criteria such as settlement patterns and economic viability." (The Mercury, 10.03.1998)

Government, Valli Moosa equates transformation with local government's new status of 'sphere': "local government is a sphere of government in its own right and no longer a function of national or provincial government".[7] It is true that a few departments (like Water Affairs) have taken into account the wishes of local councils in their plans for service delivery. But for the most part, local authorities cannot interact on equal footing with the other spheres of government. One can say that South Africa is not undergoing a real process of decentralisation, because decentralisation is by definition a devolution of political and financial powers, and in neither of these domains, local authorities can claim any autonomy. Decentralisation concerns the 'territorial distribution of power' and there is no real transfer for the moment, from central to local authority.

When councillors have to deal with other spheres of government, they always have an inferiority complex. We have already stated that councillors are guided if not controlled by members of their party who occupy national or provincial positions. Local councillors are often asked to keep quiet on certain issues which concern them directly, but which could damage the higher interests of the provincial or national government

Local authorities are not yet real "authorities", in the sense that they are not able to shape local policies or even to defend their newly acquired status.

Councillors and officials

Councillors are expected to direct local officials. The feelings expressed by most of the KwaZulu-Natal councillors on this issue are frustration, anger and discouragement because they know that they are not really fulfilling their duties. Councillors feel trapped by the superiority of the officials' legal and technical discourse. They realise that they are totally dependent on officials for technical information and support.

Councillors tend to favour solutions to this problem which can seem easy and efficient but which on the long run are costly in money and expertise and which do not solve the basic problem of trust and separation of roles. Transformation is too often equated with the firing of the 'old guard officials' and the appointment of party members and/or black officials. Instead of going to the root of the problem which is the lack of definition of a political role in relation to a technical one, and clearly delineating respective responsibilities, councillors think that they will control the decision-making process by increasing their technical knowledge and appointing political friends.

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[7] Ministry of Constitutional Development, White Paper, p.v.

Local councils in KwaZulu-Natal do not enjoy authority as defined by Bachrach and Baratz:

> *Authority is making people feel that the measure is reasonable and legitimate. With power, B prefers to obey A because it is the lesser of two evils. With authority, B chooses to obey A because he recognises that the command is reasonable in terms of his own values. However, it is not essential that A's directive be supported by reasoning. It is enough that the potentiality of such reasoning exists.*[8]

Councillors are lacking authority in front of officials and local government is lacking authority in front of national and provincial government. Those are worrying situations because they have an impact on the authority of councillors over their constituencies. The communities in KwaZulu-Natal do not hesitate to question - sometimes violently - the right of the institution to exert certain actions. In today's context, the relationship between communities and councillors can be at best one of power.[9] However, this supposes that instruments of coercion are developed, which goes against the ideal of a legitimate government, supported by most of the segment of the society.

Councillors and communities

Councillors have to steer the process of transformation and succeed in drawing the support of the 'communities'. Local councillors have the important task of informing their constituents about the activities of a local authority so that they increase the legitimacy of the structure. Given the very weak reality of a local authority for the majority of South Africans (and its total absence of reality in rural areas) local councillors have to be able to give a good account of why people should obey them. As a councillor put it during a conference:[10]

> *The problem is not the non-payment but the lack of civic responsibility. We need to explain why local government is useful and legitimate, show why it is relevant.*

But, there is a gap between the leadership functions of the councillors and their capacity to carry them out. Councillors lack vision for the new local authority and as a consequence, have a weak capacity to define the strategies necessary to reach their objectives. Besides, they have to govern in an environment where other spheres of government or other sources of legitimacy

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[8] Bachrach P., Baratz M. S., Power and Poverty. Theory and Practice, New York, London University Press, 1970, p.34.

[9] A power relation exists only if one bows to the other's wishes and if one of the parties can invoke sanctions.

(traditional leaders, warlords...) tend to limit their political control of the decision-making process. Councillors have not succeeded in becoming really legitimate. Local councillors were elected on the understanding that they would be able to change the lives of their constituencies, that elections are a powerful tool for change and that finally, people in positions of power would be responsive to the needs and demands of the citizens. But this belief is being eroded more and more. Councillors expressed, in most of the interviews carried out for this study, the feeling that people are disappointed with the few changes local government has introduced so far in their lives. What is more worrying, councillors themselves seem more and more distressed by their lack of influence on the path of transformation (without having a clear idea of what this notion encompasses).

Councillors do not understand the logic behind the decisions that they vote in council and which are nearly always initiated by the officials. The interviews of councillors showed that they are not empowered to fulfil their duties. Not only do they receive limited information when it comes to technical issues, but they do not endorse the important processes that are taking place in their municipalities (integrated development plan, local economic development plan) because they do not understand them.

As a consequence, it is difficult for councillors to explain municipal decisions to the communities when they are not themselves clear about them. In these circumstances, it is natural that the legitimacy of councillors - and the local authority itself - is questioned by communities. Councillors cannot demonstrate that they are heading a meaningful structure, able to change the lives of their constituencies.

The other element which is posing problem in terms of relationship between communities and councillors is the lack of funds. Communities judge their councillors on their results. Because there is no money to meet the expectations raised during the electoral campaign and because councillors are sometimes not allowed to fulfil certain functions which have a direct impact on the lives of the poorest,[11] people feel frustrated.[12] In other circumstances, their anger could have translated into a few declarations in the press, demonstrations in the streets and petitions to the local council. But South Africa in 1998 is a country which is a very new democracy. Anger is more likely to translate into threats and sometimes violent attacks,

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[10] Institute for International Relations' seminar, The 1997 Local Government Summit, Midrand, 18-19 June 1997.

[11] The welfare function is a case in point. If welfare was allocated to local authorities as a function, this would increase their legitimacy. This study is not arguing for a delegation of all the functions councillors are asked to perform by their constituencies. Most of the time, councillors should be able to help by directing the different queries to the right office or level of government and to accompany their constituents in their quest for a solution. However, the welfare function is such an important one, symbolically, that its delegation would help local councillors to affirm their powers.

[12] This remark has been made numerous times by councillors during the interviews.

especially when local government is not taken seriously as a sphere of government by the communities and the other spheres.[13]

THE DIFFICULT CREATION OF A LOCAL CITIZENSHIP

The creation of a new citizenship based on a new local identity is still a dream. But South Africa is a divided society. People tend to define themselves in terms of the groups to which they belong, rather than the larger political community in which they live. In divided societies, there is a lack of common agreement on social identity[14] and few people see themselves as member of the defined political community. People's political preferences and demands are still formulated according to narrowly defined group interests and not to greater common goals. The problem is how to claim common loyalties from all the citizens. This study has argued that this question is as valid at the local as at the national level. Local government is a microcosm of all South African dramas, but with an extraordinary sense of urgency. It is not surprising that two years after the local elections, common values have not had the time to emerge in the new South Africa. However what is worrying is that nobody has really identified the measures to introduce in order to develop new and shared identities.

A solution would be to promote popular participation of all segments of the society in the decision-making process and not to limit participation to the expression of a wish list. A condition for that is the involvement of councillors in the process of mobilising people and explaining the technical constraints. It takes a good working relationship with the officials and political courage.

This study has also argued that in metropolitan areas, one of the measures should be to adopt a two-tier model. Unfortunately, the two choices presented in the Municipal Structures Bill[15] do not seem to give any chance to a solution which would promote diversity as a means to build a common local identity. The first option (the uni-city one) would scrap local councils which are a tool which potentially can weave links between inhabitants from different suburbs without those links being too 'abstract'. If local councils are scrapped, Umlazi inhabitants (for

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[13] For examples of violent attacks on local councillors, see chapter 5, pp.199-200.

[14] Social identity is defined as the part of an individual's self-concept which derives from his/her knowledge of his/her membership in a social group (or groups) together with the value and emotional significance attached to that membership. See Mattes R. B., 'Social versus civic identity: nation-building and democratic stability in South Africa', Paper delivered at the Institut Français d'Afrique du Sud, Human Sciences Research Council and Foundation for Global Dialogue Conference, Identity? Theory, Politics and History, Pretoria, HSRC, 3-4 July 1997.

[15] The two choices are:

- a metropolitan council standing alone and taking all the decisions either through an executive committee or an executive mayor
- a metropolitan council with areas committees, equivalent to the present local councils except that all their powers would be delegated by the metropolitan level.

example) will not have the opportunity to feel part of a broader geographic area and be interdependent with a neighbouring Indian or white suburb. The present situation in Durban where six local councils exist, offers this opportunity. Even if this situation is not entrenched in the minds of people, and even if they will always firstly feel inhabitants of their racially homogeneous neighbourhood, the local council gives them the opportunity to feel that the geographical proximity and socio-economic linkages between the 'suburbs' can translate into a political identity and a fiscal inter-dependence.

The second option in the Municipal Structures Bill, proposes ward committees (with no original powers nor functions) which are hoped to provide recognition and expression to small cultural/ethnic communities. In fact, they are more likely to create frustration among people when they realise that they are given a tool to be heard but that the interest of the metropolitan area lies often elsewhere.[16]

The study argues that the present two-tier system, or at least the one implemented in Durban, is a positive tool to develop a common sense of belonging among citizens. It would take time to translate into a real identification to the new local and metropolitan boundaries and we know that local councillors have little time at their disposal. But by failing to try to draw people together, one can endanger the future viability of the local authorities. We have talked here of ideals of nation-building and common sense of belonging. But the danger is also very practical and tangible. If the ratepayers do not identify with the new administrative entity, they are likely to stop paying. The "transformation process" is in general understood by councillors as the seizing of power by black and to a lesser extent Indian councillors in KwaZulu-Natal. The necessity to bring in the process white residents or 'ratepayers' is obvious. If only because of the threats of boycotts, which have not yet materialised in KwaZulu-Natal, the white areas have to feel that they are part of the new local dispensation and have to identify with the new council and its decisions.

LIMITS OF TRANSFORMATION IN TERMS OF DEMOCRATISATION

Because South Africa is such a divided society, a sense of togetherness and common destiny is not likely to come out through exaltation of a common history or symbols but rather through the existence of values of citizenship and the praxis of equal citizens exercising their rights. To promote this objective, it is necessary that the South African institutions are viewed as legitimate and that citizens feel represented.

Unfortunately, there is local administration but not real local government in the KwaZulu-Natal. Democratic practices are not entrenched in the structures and the minds. It is true that

"the experience of the 1980s has created expectations that local government will offer 'the community' a form of power which is almost certainly unattainable."[17] But with too much emphasis on the 'people's power' and not enough on the legitimacy and the representivity of councillors, participation has become a slogan with little meaning. Tools were developed to channel the demands and needs of the citizens but this is not sufficient if the policy decisions are still being taken by officials, consultants or higher spheres of government. If we use Arnstein's 'ladder of citizen participation',[18] what we seem to see in South Africa, is different degrees of tokenism if not manipulation. Public participation is most of the time limited to consultations about popular needs and concerns and never reaches the stages of project planning and evaluation. Initiatives such as the creation of liaison units or liaison officers, the opening of council meetings to the public, and participatory budgeting are cosmetic. They do not address community participation as such.

This situation is not likely to change if the electorate remains as apathetic as it is concerning local matters. Except for an increase in the organisation level of white ratepayers to resist the rates' hike and some hostile (and occasionally violent) actions taken again the local councillors who are seen to promote unpopular measures, the majority of the local citizenry take little interest in the politics of local authorities.

In the rural areas, the situation is worse. Most of the decisions taken are technocratic and involve neither communities nor their public representatives. Rural people are for the moment denied the kind of empowerment that enables citizens to improve the quality of their life and be part of the broader polity. The problem is not only that communication is difficult between local authorities and citizens. It is that the institution does not provide any help for rural and urban communities to organise. The regional councils are "simply retreaded RSCs, whose ethos, mode of operation and resources run against the new programmatic ideals of stimulating local level democracy in rural areas."[19]

The problem of participation and democracy is not mainly related to the question of how many councillors there should be per rural inhabitant. Local authorities have to deal with what kind of participation they want to promote. Nobody is really trying to address the question of

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[16] See for more details chapter 7, pp.279-283.

[17] Christianson D., Friedman S., Strong Local Government in South Africa: Exploring the Options, Johannesburg, Urban Foundation Research Report 2, March 1993, p.27.

[18] Arnstein S., 'A ladder of citizen participation in the USA', Journal of the Royal Town Planning Institute, Vol. 57 (4), 1971, pp.176-182. The ladder was constructed with specific reference to her analysis of federal social programmes in the United States in the 1960s. It is a valuable tool if one wants to evaluate the real power of citizens over the decision-making process. She identifies different degrees of citizen powers (citizenship control; delegation of power and partnership), different degrees of tokenism (placation, consultation and informing) and the level of non-participation (manipulation).

[19] Gotz G., 'Local elections 1995', Indicator SA, Quarterly Report, Vol. 13 (1), Summer 1995, p.27.

how to go beyond the exercise of needs identification and involve community and councillors in definition of strategies. This would be vital because:

> *Politics are essentially about the reconciliation of conflicting interests - not about achievement of perhaps unattainable and illusory perfect solutions.*[20]

LIMITS OF TRANSFORMATION IN TERMS OF DEVELOPMENT

Finally, local authorities are not ready to face the challenge of local development. Local government has the means to act on the environment which can favour investors and some councils are involved in economic development. Local authorities have an influence on the local economy through the fact that they own land, receive rates, employ thousands of people, set the price for water and electricity, can promote investment. They are at the forefront of policies which can have an impact on the local industry. Through affirmative action or procurement policies, they can fulfil their social responsibility. But several impediments stand in the way of developmental local government.

Local authorities have not adapted to their new developmental role. Local administrative structures have remained much as they have been inherited from the past, and have been little altered towards promoting economic and social development.

We have also seen that the other spheres of government are jeopardising the developmental function of the municipalities. Some positive efforts of co-ordination are initiated by the regional councils or by line ministries (such as the DWAF) and this augurs well for the future. However, as long as plans approved by local authorities are not binding other service providers, development is not going to happen. For the moment, local authorities have no means to ensure that a coherent and integrated development is taking place in their areas of jurisdiction. Other spheres have to respect of the planning responsibilities of local government, and local councillors have to affirm their authority.

Explanation in terms of a lack of ambition in terms of amalgamation

The obstacles to change are numerous. The apartheid legacy in local government renders transformation very difficult. Development and a culture of local democracy are hampered by its residues.

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[20] Klein R., reviewing Max Nicholson's book The System, in The Observer, 24 September 1967 quoted in Hill D. M., Participating in Local Affairs, Harmondsworth, Penguin Books, 1970, p.196

The multiplicity of local government bodies makes it clear that the first characteristic of the apartheid system of local government was its compartmentalised nature. Due to the different legal status of the former separated entities, the integration of infrastructure, municipal staff and land into the assets of the new municipality is slow. These administrative problems although they are only temporary, cast a shadow on the capacity of the councillors to provide services immediately and introduce visible changes in the areas where needs are the greatest.

The principle adopted during the national negotiation process on local government was that the boundaries separating the races should disappear, that the fall of apartheid should be translated into multi-racial local authorities. As a consequence, functionally linked white, black, Indian and coloured local government were 'amalgamated'. Because of the fact that local authorities in non-white areas were not real authorities or even real providers of public services, the reality of the transformation consisted not so much in amalgamating (which would have placed all the former components of the new local authority in an equal position) but in integrating the different surrounding areas to the white local authorities.

Although local government was used by the central government as a means to enforce apartheid and although its institutions were those most targeted in the struggle, the model remains in most respects that of white areas under apartheid. In urban areas, especially, the guiding principle has been not so much transformation, as extension of an existing white local authority model to the previously excluded areas.

This study reveals shortcomings in the logic of extending the system without adapting it through training of councillors and officials, reorganisation of departments, the setting up of new channels of communication with the citizens and so on:

> *South Africa has a First-World system of local government in a Third-World society.*[21]

Attempts to cope with this situation have lacked depth. If changing the 'face of the administration' is one step towards transforming the municipality, two vital complementary aspects of transformation have often been disregarded. If councils want their officials to adopt new behaviours which favour development and democracy, it is not sufficient to change the people. Councils have to take into account the training needed by the officials, not only about the nature of the changes, but also about how to cope with them. Moreover, it is necessary for councillors to be in possession of indicators to assess this transformation process. Some important aspects of the change process such as psychological factors, financial costs, lack of evaluation indicators and poor political leadership have not been catered for.

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[21] Craythorne D. L., Municipal Administration, A Handbook, third edition, Kenwyn, Juta & Co, 1993, p.46.

In rural areas the situation is worse. The main problem for regional councillors is that they inherited a structure which was not conceived to promote participation. The rural institutions in KwaZulu-Natal have scarcely changed since the time of the JSBs. Development is highly contingent upon the establishment of a sound development-oriented institution and the JSBs, products of an apartheid institutional environment, were largely "inefficient, not transparent, unaccountable and not adaptable."[22]

The White Paper on Local Government is very critical about the extent of the institutional transformation of local government:

> *Many administrations are still organised in much the same way as before, and most have not made significant progress with respect to transforming service delivery systems.*"[23] The document adds that ... *local government has been democratised, but the local government system is still structured to meet the demands of the previous era. A fundamental transformation is required.*[24]

This study confirms these critical remarks for KwaZulu-Natal.

Explanation in terms of the role of political parties

A second obstacle to change is the role of political parties at local level. It is not argued here that political parties have no relevance at local level. Local authorities are asked to and should be empowered to take political decisions and the presence of parties is a natural consequence of their new status of 'sphere' - however inadequately realised.

The presence of parties is not an obstacle because they prevent the decision-making process. Even in the hung councils, such as Dundee,[25] Estcourt,[26] Stanger,[27] Richards Bay[28] the most important split in council is along racial and geographical lines. The interests of the established white areas are in opposition with those of the newly black and Indian amalgamated areas. The white wards benefit from first world quality services provided by a structured administration, and enjoy relatively low rates. The B (black) wards lack often even a minimum of services and were run by inefficient staff and administration. The developed areas want to retain their quality of life and service without having to assume too much the

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[22] Morris M., Barnes J., KwaZulu Natal's Rural Institutional Environment: its Impact on Local Service Delivery, Land and Agricultural Policy Centre, Working Paper 49, August 1996, p.14.
[23] Ministry of Constitutional Development, White Paper, p.8.
[24] Ibid., p.16.
[25] Dundee's council is composed of 5 ANC, 5 NP, 3 IFP and 3 independent councillors
[26] Estcourt's council is composed of 7 independents, 5 ANC, 5 IFP, 1 NP and 1 ratepayer councillors.
[27] Stanger's council is composed of 9 ANC, 4 IFP, 4 NP and 5 independent councillors.

financial burden of the development in B wards. Black areas expect the municipality to repair the faults of the past and to develop infrastructures, housing and promote employment. This division corresponds to a political one (independent and NP councillors against IFP and ANC) but the party labels are secondary. The party dimensions of the conflict have not shown strongly in the first year and a half of the transitional councils. This aspect will certainly become more important in the months before the 1999 local elections, but the reason will be electoral gain.

Party conflict is not blocking the decision-making process and parties do provide a kind of support to local councillors. Thanks to the caucuses, training sessions and workshops organised by the parties and the participation of MPPs or MPs in the debates of the councils, councillors feel that they are backed and supported by a structure, that they are not alone in the 'wilderness' to take decisions.

However, the presence of politicians from other spheres of government, tends to deepen the inferiority complex of local councillors and reproduce the domineering attitude of the provincial and central administrations. The support to councillors appears often to be control over their decisions. The presence of MPs or MPPs' offices in a TLC and their participation to council caucuses tend to outweigh the councillors in caucus debates. The disparity is high between councillors and colleagues from other spheres, in knowledge, education, and awareness of the global context in which decisions are taken. Councillors tend to follow the party line.

Transformation has also been hindered by the very specific political context of the province. Local government in KwaZulu-Natal has been the victim of the on-going conflict between the ANC and the IFP. It has been and still is a pawn in the IFP/ANC battle to win the control of the province. This has resulted in late elections and the drawing of boundaries which, from the point of view of development, are quite irrational. The question of the inclusion of the traditional areas in the TLCs' boundaries was an important one given their serious lack of infrastructure and their needs in terms of service provision. But these rational considerations fell foul of parties' obsession with determining clearly who is the "master of the province".

Another area in which parties have impacted negatively on local government matters has been the selection of candidates. The choice has been dictated more often by the logic of internal party competition than the popularity and the ability of the men and women. This has

[28] Richards Bay's council is composed of 10 ANC, 6 IFP, 5 ratepayers, 5 NP and 4 independent councillors.

contributed to the general problem of the lack of leadership at local government level, a problem which is in fact the main stumbling-block to the transformation process.

Explanation in terms of lack of leadership

In every transitional situation, in which a country is asked to redefine itself, its goals, its identity, it is important to have strong leaders. Lindsay's remark in the context of the end of World War II in Europe can be applied in the context of South Africa at the end of the 1990s:

> *If democracy is to survive it will have to employ and use every bit of skill and knowledge and leadership it can get hold of. This complicated interdependent world in which we are living cannot be run without knowledge and skill, foresight and leadership. Any cult of incompetence can only lead to disaster.*[29]

Leadership is widely recognised as crucial for democratisation:

> *The critical element for the health of a democratic order consists in the beliefs, standards and competence of those who constitute the influentials, the opinion leaders, the political activists in the order... If a democracy tends towards indecision, decay and disaster, the responsibility rests here...*[30]

Councillors are expected to be political leaders.[31] The White Paper spells out clearly the important duties on the councillors' shoulders. They are expected to "build the kind of political leadership that is able to bring together coalitions and networks of local interests that co-operate to realise a shared vision."[32]

While it is inevitable that some councillors will carry more weight than others, arguably all councillors should be leaders in and of communities. This study revealed that this is not the case and a very few councillors are able to speak on an equal footing to the provincial and national government, or stand up in front of a community and justify the political decisions taken in council.

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[29] Lindsay A. D., The Modern Democratic State, London, Oxford University Press, 1943, p.261.
[30] Key V. O., The Responsible Electorate, Cambridge, Mass., Belknap Press, 1966, quoted in Sartori G., The Theory of Democracy Revisited, New Jersey, Chatham House Publishers, 1987, p.164.
[31] According to Samoff, political leaders are "those individuals, who, either by virtue of some official or unofficial leadership position in the community or by nomination by other leaders as a 'powerful' or 'influential' person in the community could be expected to play a significant role in determining how resources are allocated and which individuals and groups benefit from the out-puts of the local political process." Samoff J., Tanzania: Local politics and the Structure of Power, Madison, The University of Wisconsin Press, 1974, p.103.
[32] Ministry of Constitutional Development, White Paper, p.22.

The transformation of local government in KwaZulu-Natal is not a revolutionary process or an oppositional one. Like in many other aspects of the South African society, it is not trying to destroy the past but to build on it. One can say that the old tools (the municipal structures under apartheid) are now expected to serve new and ambitious goals such as democracy and development. But even if new groups have come to power, the lack of legitimacy of the structure, the lack of sense of common belonging and especially the lack of leadership and authority of councillors, result for the moment in the existence of a local administration but not yet a local authority.